



Think

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December 3, 2014

Via E-Mail Only

California Assembly Judiciary Committee
1020 N Street
Room 104
Sacramento, CA 95814

RE: Numerous Abuses at the California Department of Business Oversight

To Whom It May Concern:

For more than three years, my company, Think Computer Corporation ("Think") has been in litigation with the California Department of Business Oversight ("DBO," formerly the California Department of Financial Institutions, or "DFI") concerning the legislation written by and the outrageous behavior of Deputy Commissioner Robert Venchiarutti. Mr. Venchiarutti's 2010 California Money Transmission Act ("MTA", 2010 Assembly Bill 2789), sponsored by a lobbying group called The Money Services Round Table (comprising Western Union, MoneyGram, American Express, and other very large financial institutions), deliberately made it nearly impossible for technology companies to legally innovate the financial sector. Due to my protests and those of others, the MTA was amended twice: first by 2013 Assembly Bill 786, and then by 2014 Assembly Bill 2209.

Think's federal lawsuit against Mr. Venchiarutti and the DBO's Commissioner has been stalled by the delay of Magistrate Judge Howard R. Lloyd, who has been considering the State's motion to dismiss for well over 1,000 days, which is quite unusual. In the meantime, I have requested a number of documents from the DBO via the Public Records Act, and when the DBO has frequently been unwilling to provide information, I have obtained documents through other channels.

Very recently, I came into possession of documents that show Mr. Venchiarutti committing perjury during a 2010 deposition in the case of *Donald H. Lake v. California Department of Financial Institutions*, San Diego

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County Superior Court Case No. 37-2009-00102604-CU-DE-CTL. Mr. Venchiarutti and his subordinate at DBO, Julio Prada, were sued by a colleague for fostering a hostile and racist work environment. In the deposition, Mr. Venchiarutti was asked, “From passing the Bar to DFI, did you ever have any lawsuits or claims of discrimination or harassment against you?” First, he asked for clarification: “Against me?” Opposing counsel responded, “Yes.” Mr. Venchiarutti’s answer to the question was a flat, “No.”

Mr. Venchiarutti’s answer under oath was plainly and demonstrably false. He was sued (and named as a defendant) in March, 2003 in Los Angeles County Superior Court in the case of *Roosevelt Bates v. Philip J. Halvorson, Robert R. Venchiarutti et al*, Case No. SC076324, for legal malpractice. The case was settled in mid-2004.

Even if Mr. Venchiarutti misunderstood the question to refer only to lawsuits involving discrimination (even though he clarified that he interpreted the question to refer to all matters “against [him],” and did not request any further clarification or repetition as he did for other questions), he was also obligated to mention this lawsuit in response to the immediately preceding question: “What made you leave being a contract attorney to go to work for DFI?” Just before he became a full-time DFI employee, Mr. Venchiarutti had settled the malpractice claim. Several reasons were offered for the abrupt career change in response, but not the malpractice lawsuit.

In California, perjury is a felony. Mr. Venchiarutti’s role as Deputy Commissioner of Money Transmission is one of great importance—one in which he has oversight of extremely large financial institutions, including but not limited to Western Union, MoneyGram, and PayPal, which each handle billions of dollars. For this reason alone, even if he is not prosecuted, Mr. Venchiarutti should be terminated from his position and not permitted to work for the California (or any) government agency. California citizens should not be trusting a perjurer with a history of legal malpractice to regulate their financial institutions.

Additionally, the transcripts from the *Lake* case reveal a great deal about the inner workings of the DBO.

- According to Venchiarutti, “the culture of the place is you don’t want to overrule folks.” This is extremely problematic given the Department’s track record, and echoes similar concerns recently expressed about culture at the Federal Reserve Bank of New York.
- DBO bank examiners figured that banks being examined were “on top of things” if a bank president’s office looked “pretty neat and clean.”
- DBO employees worked in the money transmission unit in order to “obtain a promotion,” as part of favors, and because it was “easy work.” Other times, DBO employees were made to work on money transmission applications as “punishment.”
- Some money transmission examiners wondered, “why do we even bother with this.”
- DBO employee Julio Prada was described as “abusive” toward other DBO employees and a “big, burly bear of a guy walking around stressed.” Some employees described themselves as “completely terrorized.”
- Mr. Prada kept a blood pressure monitoring cuff in his office due to his anger management problems,

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which became a departmental joke.

- Mr. Venchiarutti's "management style" was that "it's better often, particularly when it can be perceived as critical, to just talk to people rather than to put it in writing."
- "There's no training course" for money transmission examiners, and no examination manual. "It's just on-the-job training."
- Referring to the money transmission division, Mr. Venchiarutti stated, "Who would jump on that grenade? There's a grenade in the corner. Who would be silly enough to take this job?" and "I could go up in flames."
- For doing the bidding of financial lobbyists, Mr. Venchiarutti viewed himself as a martyr. "I was rewriting legislation that's currently pending, you know, and I think there's -- I'm basically busy -- for a civil servant who is subject to furloughs and underpaid and haven't had a pay raise, I'm a very, very busy guy." He also described himself as the "hardest-working deputy at DFI."
- The Department's efforts fell short and permitted criminal activity. "...there was a period of time where it was, you know, there was clearly not just the volume of work but new laws and regulations, you know, some failures of companies that were being indicted and prosecuted for money laundering. So company re-license was, you know, part of this criminal conspiracy. That's not, you know, good."
- Mr. Venchiarutti was and is unqualified for his job. "I don't have any examination credentials."
- Mr. Venchiarutti discriminated against license applicants based on company size. In contrast to applications from big companies that were "basically, slam dunks, and they would just go through," "Some of them were difficult in the sense there's challenging issues because they're a start-up, or they're funded by venture capital."
- The DBO's work was slowed down considerably because Julio Prada was obsessively critical of the fonts examiners used to type their documents.
- The DBO's money transmission license application process was described as "subjective."

These issues compound the issues described at the March, 2013 California Assembly Banking & Finance Committee DFI oversight hearing (preceding Assembly Bill 786), where then-DFI Commissioner Teveia Barnes described the Department's work on money transmission as a discriminatory "art form."

Attempts to call attention to these issues previously were thwarted due to Mr. Venchiarutti personally threatening Jeremy Dennis, District Manager of Assemblyman Richard Gordon, for placing a phone call to then-DFI Commissioner Bill Haraf; the DBO's refusal to provide the transcripts cited above in response to numerous and specific public records requests; because the California Assembly Banking & Finance Committee threatened to delete any public comments that specifically contained Mr. Venchiarutti's name, despite the "oversight" context; and because the California Office of Administrative Law refused to take any action on two petitions highlighting the DBO's illegal underground regulations. These actions constitute gross abuses of power and/or negligence on the part of the executive and legislative branches. Additionally, and perhaps most disappointingly, the Governor and the State Auditor have been completely unwilling to

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take any action whatsoever.

For years, the DBO's actions under Robert Venchiarutti have grossly distorted financial markets and allowed illegal activity to proliferate to the detriment of California citizens. My own business has been completely stymied for years, while numerous competitors, breaking the law every single day, have been able to collectively raise billions of dollars in venture capital financing and put huge amounts of Californians' money at risk.

I hope that this letter and the attached documents provide sufficient evidence that the DBO, its various Commissioners and Mr. Venchiarutti should be thoroughly investigated by an objective and serious government body.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Aaron Greenspan", with a stylized, flowing script.

Aaron Greenspan
President & CEO
Think Computer Corporation

Enclosures

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DONALD LAKE,)	
)	
Plaintiff,)	
vs.)	CASE NO. 37-2009-
)	00102604-CV-OE-CTL
CALIFORNIA DEPARTMENT OF)	
FINANCIAL INSTITUTIONS)	
ET AL.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF ROBERT VENCHIARUTTI

VOLUME I

Oakland, California

Thursday, July 22, 2010

Reported by:
Debra L. Pope, CSR
CSR No. 4229
Job No. 1-20279

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN DIEGO
3
4

5 DONALD LAKE,)
6 Plaintiff,)
7 vs.)
8 CALIFORNIA DEPARTMENT OF)
9 FINANCIAL INSTITUTIONS)
10 ET AL.,)
Defendants.)
_____)

CASE NO. 37-2009-
00102604-CV-OE-CTL

11
12
13
14
15 The Deposition of ROBERT VENCHIARUTTI,
16 taken on behalf of the Plaintiff, at
17 Marriott Courtyard Oakland Airport,
18 350 Hegenberger Road, Oakland, California,
19 94621, beginning at 10:00 a.m. and
20 ending at 4:38 p.m., on Thursday,
21 July 22nd, 2010, before DEBRA L. POPE,
22 Certified Shorthand Reporter No. 4229.
23
24
25

A P P E A R A N C E S

FOR THE PLAINTIFF DONALD LAKE:

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E X H I B I T S

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1	Two-page Memorandum from Donald H. Lake, Jr., Patrick Lum and Rosalyn Tomaszewski to Robert Venchiarutti, May 6, 2005, Subject: TMA Management/Julio Prada	78
2	Eight-page Policy 1395, Workplace Violence Prevention and Zero Tolerance Policy, Bates Nos. DFI 0000192-199	108
3	Three-page DFI Section P Telework policy, Bates DFI 0000137-139	137
4	DFI Telework Program, #1380 Policies and Procedures Manual, Bates Nos. 0000168-191	137

Oakland, California

Thursday, July 22, 2010

ROBERT VENCHIARUTTI,

called as a witness herein, having been first duly sworn by the Certified Shorthand Reporter, was examined and testified as follows:

EXAMINATION

BY MR. KODAM:

Q Can you please state your full name for the record and spell it?

A Robert, R-o-b-e-r-t, Venchiarutti, V-e-n-c-h-i-a-r-u-t-t-i.

Q And is your current employer the State of California, Department of Finance?

A Department of Financial Institutions.

So, yes. The answer is yes.

Q And if we refer to the DFI, you understand that it's the same thing?

A Yes.

Q And have you ever had your deposition taken before?

A I don't think so. I used to be an attorney. So I've defended and taken depositions,

1 and I don't recall ever being actually deposed, no.

2 Q Okay. I'm going to go through kind of
3 some ground rules for a deposition. Your attorney
4 probably went through them, but just so we make sure
5 we're all on the same page, the oath you just took is
6 the same oath you would take if you were in trial.
7 Basically, we're looking for you to tell the truth.
8 Give us your best testimony.

9 Saying that, I'm going to be asking you a
10 series of questions. I'm looking for your best
11 answer. If at any point you don't understand the
12 question, it doesn't make sense, please let me know.
13 If you answer a question, I'll presume that you
14 understood the question and that there's no
15 misconception.

16 I'm not trying to trick you or mislead
17 you. So feel free to clarify things. Especially I
18 know, as the day goes by, my speech becomes more
19 mumbled and garbled because I get tired. I'm also
20 not looking to do a sprint here or make you
21 exhausted. The point of this is to just get through
22 and get some information.

23 Saying that, if you need to take a break,
24 use the restroom, speak to your attorney, just ask.
25 The only thing I'd request is that, if I've asked a

1 question, just make sure to answer the question
2 before we take a break.

3 Saying what I said about this being your
4 best testimony here today, you will have an
5 opportunity later, probably in a few weeks, to review
6 a transcript of everything that's said in here
7 today. That transcript -- you will have a chance to
8 review it and make changes.

9 Keep in mind, though, that if you make
10 any changes we can comment on that, and it goes to
11 your credibility. So I'd ask that you try to give
12 your best testimony today rather than finding out
13 later that some of the information is totally wrong.

14 If, let's say, I ask you a question this
15 morning and tomorrow you remember something related
16 to a question I asked today, bring it up then rather
17 than making an adjustment later. It helps to make
18 things go a lot smoother and easier.

19 Saying that, the court reporter to your
20 right and my left is writing everything down. The
21 transcript is based on what she writes down. It's
22 important that you and I speak one at a time. In a
23 normal conversation we may be commenting or making
24 statements -- are you okay, sir?

25 A Yeah, I'm fine.

1 Q Okay.

2 A My glasses -- I need a new -- I need to
3 go to my eye doctor, I guess.

4 Q Okay. I just wanted to make sure there
5 wasn't any issue.

6 A No. I'm trying to decide whether I
7 should keep my glasses on or off because you're right
8 at a distance --

9 Q Would you prefer if I --

10 A No. My eyes will adjust.

11 Q Okay. I lost my train of thought.

12 MR. KNUDSEN: You were talking about not
13 talking over each other.

14 MR. KODAM: Thank you, Chris.

15 BY MR. KODAM:

16 Q It's important that we speak one at a
17 time. So I will do my best to make sure you finish
18 your answers and please give me the respect of
19 letting me finish my questions. I know sometimes
20 you'll kind of probably anticipate where I'm going or
21 what the question's about. Just let me finish it for
22 two reasons.

23 One is the question may not be exactly
24 what you think it is, Number 1, and, Number 2,
25 your -- it gives your attorney the opportunity to

1 also state any objections he may have.

2 Now, saying that, if your attorney makes
3 an objection, that is placed on the record. Unless
4 he instructs you not to answer, you still need to
5 answer.

6 Is there any reason you can't give your
7 best testimony here today?

8 A No.

9 Q Have you taken any medication or alcohol
10 in the last 24 hours that you think would impact your
11 memory or ability to testify here today?

12 A No.

13 Q One last thing. As I go through, I may
14 ask you questions that I already know the answer to.
15 The reason I ask them is not necessarily that I'm
16 trying to bore you to death, but a lot of times I
17 want to make sure that we're as clear as possible and
18 both talking the same language so there's no
19 misconception later on.

20 Do you understand all of the instructions
21 I've given you this morning?

22 A Yes.

23 Q What is your position with the DFI?

24 A I am Deputy Commissioner for the Money
25 Transmitter Division.

1 Q And when did you become Deputy
2 Commissioner for the Money Transmitter Division?

3 A I think -- I was in the acting capacity
4 since May of 2003 roughly, and about a year later I
5 was formally the deputy.

6 Q So about May of 2004, approximately?

7 A Right. Functionally I was doing the
8 exact same job starting in May of 2003.

9 Q Now, how long have you worked for DFI?

10 A I started December 2000.

11 Q And what was your position in December
12 2000?

13 A Staff attorney.

14 Q Do you have a law degree?

15 A Yes.

16 Q My condolences.

17 A Exactly. I'm a recovering attorney.

18 Q How long have you been admitted?

19 A Admitted? I guess I found out I passed
20 the Bar -- I graduated in '93. So fall of '93? Does
21 that make sense? If I graduated, took the Bar that
22 summer --

23 Q November is when you're notified.

24 A Yeah. So it would be November of '93.

25 Q We'll go through your education and

1 background in a second.

2 Now, how long were you a staff attorney,
3 the three years, or was there any position in
4 between?

5 A For -- from December 2000 until May of
6 2003.

7 Q Okay. And was it a staff attorney for
8 all of DFI, or were you the staff attorney for a
9 specific division of DFI?

10 A You're not assigned that way. There
11 were, I think, at the time -- general counsel --
12 maybe seven attorneys total. I'm just trying to do
13 the head count here -- but seven or eight.

14 So I was one of the attorneys, and you
15 would be assigned work that could be related to
16 banking or credit unions or money transmitters. It
17 turned out that I did a lot of money transmitter work
18 towards the end because there were a couple of big
19 projects.

20 So I was doing a fair amount of work that
21 was money transmitter related, but I certainly wasn't
22 assigned to money transmitters, I guess.

23 Q And who was your direct supervisor?

24 A Now?

25 Q No, at the time when you were a staff

1 attorney.

2 A Tom Thompson.

3 Q What was his position?

4 A He was Assistant General Counsel, I think
5 is the title.

6 Q And then did you apply for the Deputy
7 Commissioner, or were you appointed?

8 How did that come about?

9 A I was approached by the Commissioner at
10 the time, Don Meyer, and Carol Chesbrough, who's been
11 the -- goodness. What is her exact title? She's
12 the -- I guess she's Chief Deputy Commissioner.

13 Q Carol is?

14 A Yes, Carol Chesbrough.

15 Q Can you spell it for the court reporter?

16 A Sure. C-h-e-s-b-r-o-u-g-h. Goodness. I
17 hope I have that right.

18 Q And what is Don Meyer's position?

19 A He was the Commissioner at the time.

20 Q And when they approached you, what did
21 they tell you?

22 A I mean, there was a series of
23 conversations and meetings. Basically, I was
24 recruited because they thought I'd be a good
25 candidate. They liked my work. They thought I was

1 smart. They thought I'd be a real good addition to
2 the executive management team.

3 They identified money transmitters as a
4 berth that had been neglected and needed to grow.
5 This was right after September 11th and the Patriot
6 Act. Money transmitters was an industry that had
7 been identified as very high risk nationally, and, to
8 be blunt, California, DFI, had not devoted enough
9 resources to it.

10 Plus, the environment had pretty much
11 changed after September 11, in terms of some of the
12 regulations, and so they thought I would be a good
13 person to lead that division and help it grow.

14 Q Was there a prior Deputy Commissioner, or
15 were you the first Deputy Commissioner of the money
16 transmitters?

17 A You know, I don't think there was a prior
18 Deputy Commissioner. Certainly not right before me,
19 and I don't know about historically. I suspect that
20 there never was, but I'm not certain about that.

21 Q At the time in mid-2003, how many people
22 were under you in the Money Transmitter Division, if
23 you recall?

24 And bear in mind, I'm going to ask you
25 questions sometimes that are historical. I'm looking

1 for your best estimate. I mean, if you have to guess
2 I don't want you to, but if you can give me a range
3 or a best estimate that would be good.

4 A And I do remember because when I started
5 there were, basically, three people in the group.
6 There were five positions. So if you looked at an
7 org chart there would be me and five positions, but
8 two of those positions -- one person was out on
9 disability, and another person was being used
10 somewhere else, and frankly I'm not quite sure but I
11 remember thinking, oh, on the org chart it looks like
12 there's five, and, in fact, I really just have
13 three.

14 Pretty immediately we were able to get at
15 least some help, but that's how it all began. There
16 was me and, basically, three others.

17 Q Let me back up a second, and we're going
18 to come back to your Deputy Commissioner time frame.

19 Where were you working prior --
20 immediately prior to DFI?

21 A I was a -- I'm just trying to remember --
22 basically, a contract attorney for about three
23 years. So I worked for a couple of different
24 people. You want the names of folks that I worked
25 for or with or --

1 Q Just so I understand, when you say
2 "contract attorney," were you self-employed and just
3 being of counsel?

4 A That's right exactly. I was
5 self-employed and working for folks who had the work
6 to farm out to me.

7 Q So you said you were doing that for about
8 three years?

9 A Yeah, you know, I need to -- I don't have
10 a resume. I haven't looked at a resume in years and
11 years. So -- but that's the -- I mean, let's see.

12 That sounds about right. Three years.

13 Q How many different firms or attorneys did
14 you work with?

15 MR. KNUDSEN: During this time he was a
16 contract attorney?

17 MR. KODAM: Yes.

18 THE WITNESS: Mostly three.

19 BY MR. KODAM:

20 Q And who were they?

21 A Phil Halvorson.

22 Q Can you spell that?

23 A Halvorson. Peter Vestal, V-e-s-t-a-l,
24 and, goodness gracious, this third guy whose name is
25 escaping me right now. Sorry. It's not coming to

1 me.

2 Q If you happen to think of it later in the
3 depo --

4 A Sure.

5 Q -- let me know. Sometimes your memory
6 gets jogged when you're not focusing on what you're
7 trying to get at.

8 A Yeah.

9 Q And where were their offices located?

10 A Oh, all in downtown San Francisco.

11 MR. KODAM: Off-the-record comment.

12 (Discussion off the record.)

13 BY MR. KODAM:

14 Q Now, you passed the Bar in 1993, and it
15 seems like you were a contract attorney from '97 to
16 2000.

17 What were you doing between '93 and '97?

18 A I worked for Farella, Braun & Martel,
19 which was also in San Francisco downtown, and then
20 Orrick, Herrington & Sutcliffe.

21 Q Can you spell that second one?

22 A Orrick -- if you're a court reporter, I'm
23 sure you know it.

24 Q I'm not from here. I don't even know how
25 to start writing that.

1 A Well, O-r-r-i-c-k. Herrington, Two r's,
2 i-n-g-t-o-n. Sutcliffe is S-u-t-c-l-i-f-f-e, I
3 believe.

4 Q Okay. What period of time did you work
5 for Farella?

6 A Farella -- I was a summer associate there
7 and then worked there again right after law school.
8 So '93 till about -- two and a half, three years.

9 Q So '95-'96?

10 A Yeah, I think it was the middle of '96.
11 Is that right? Yeah, that seems right to me, and
12 then I went to Orrick, and I was there for six
13 months, basically.

14 Q Who was your immediate supervisor at
15 Farella -- or maybe managing partner?

16 A You know, I had several, but the person
17 that I would consider -- well, Charles Sink probably
18 would be the person.

19 Q Chelsea?

20 A No. Charles Sink, S-i-n-k.

21 Q And was he a partner?

22 A Yes.

23 Q What kind of work did you do there? And
24 don't tell me "attorney work." I meant what area of
25 law.

1 A I was a litigation associate, and I did a
2 lot of different things but probably predominantly
3 insurance coverage work. I did plaintiff's insurance
4 coverage. We sued insurance companies and then also
5 some construction, but there were all sorts of things
6 we worked on.

7 Q So like bad faith insurance claims?

8 A No, it wasn't plaintiff's side. It was
9 like the Safeway fire over here where, you know, they
10 had a hundred million dollar claim, and the insurance
11 company said literally -- it's very funny, but there
12 were years and years of litigation over whether smoke
13 from a fire is pollution, if you can believe that.

14 Q Sounds like the mold cases I sometimes
15 get.

16 And then what about -- who was your
17 immediate supervisor at Orrick?

18 A M.J. Pritchett. M, period, you know, it
19 was -- I never knew what "M.J." stood for.

20 P-r-i-t-c-h-e -- I think one t at the
21 end.

22 Q Male or female?

23 A It's a male.

24 Q Partner as well?

25 A Yes.

1 Q And did you do the same type of work, or
2 was it different?

3 A No, it was totally different. It was
4 real estate transactional work.

5 Q Why did you leave Farella for Orrick?

6 A I wanted to -- I had already decided that
7 I didn't like litigation, large commercial cases. I
8 wanted to try transactional work. So it was kind of
9 a career change, basically, and, in fact, I wanted to
10 do real estate transaction work coming out of law
11 school but remember there a recession in the
12 nineties.

13 So there were no jobs, and by that time,
14 you know, mid-nineties, the real estate market was
15 trying to come back, and there were actually some
16 positions. There really wasn't that opportunity at
17 Farella. Farella is, even to this day, more of a
18 litigation shop.

19 So I went to Orrick, and so that's why I
20 left Farella and -- it was just to, you know, I
21 wanted to try something different.

22 Q Why did you leave Orrick?

23 A Because I knew at that point -- in many
24 ways the culture of Orrick is very much, you know --
25 I'm talking to you as an attorney, three attorneys,

1 and a court reporter in the room.

2 I think we all know what large commercial
3 firms are like, and that culture was something I
4 realized was just not something I was interested in.
5 I didn't want to pursue a career there. I didn't
6 want to be a partner at any of these large firms, and
7 I thought the work, the different work, would be
8 enough to keep me interested. I was wrong.

9 Q What made you leave being a contract
10 attorney to go to work for DFI?

11 A Probably, you know, the real answer is
12 just job security. I was ready to just have a
13 full-time, regular job. It was also what DFI did.
14 The subject matter also interested me. So it wasn't
15 just that, but that was primarily my interest as to
16 why I was even interviewing for, you know, full-time
17 government jobs.

18 Q From passing the Bar to DFI, did you ever
19 have any lawsuits or claims of discrimination or
20 harassment against you?

21 A Against me?

22 Q Yes.

23 A No.

24 Q Outside of the subject matter of this
25 case, have you ever had any complaints of

1 discrimination or harassment against you?

2 MR. KNUDSEN: Let me -- you mean, during
3 the time that he's worked for DFI?

4 MR. KODAM: Yes.

5 MR. KNUDSEN: You may answer.

6 THE WITNESS: Outside -- I just want to
7 make sure -- could you just repeat the question?

8 MR. KODAM: Sure.

9 BY MR. KODAM:

10 Q Outside this case, and I'll add in every
11 complaint that Mr. Lake has placed, have you had any
12 other individuals file any sort of complaints against
13 you for discrimination or harassment while you've
14 been at DFI?

15 MR. KNUDSEN: Well, let me just interpose
16 a really quick objection. Objection irrelevant.
17 Potentially seeks confidential information,
18 especially to the extent it's looking for cases that
19 are unlike this one -- for example, sex
20 discrimination or sex harassment.

21 That said, the witness at this point may
22 answer as to whether or not there was one.

23 THE WITNESS: I don't want to
24 characterize -- sorry. Can you repeat the question
25 again? I'm sorry. Or maybe the court reporter can

1 just read it. I just want to be sure I'm answering
2 the question.

3 MR. KODAM: No problem. Why don't we --
4 so we don't go through this, can you just reread the
5 question, please.

6 (Record read.)

7 THE WITNESS: Whether they were
8 discrimination or harassment -- to me, my opinion is
9 open, but there were two complaints that involved two
10 individuals while I was at DFI. One was
11 John Rockwell. The other was a fellow named
12 Kerou Li. I'll spell that. K-e-r-o-u, and his last
13 name is Li, L-i, I believe, and, you know --

14 MR. KNUDSEN: At this point you've
15 answered his question.

16 THE WITNESS: Okay.

17 BY MR. KODAM:

18 Q What were the complaints raised by
19 Mr. Rockwell?

20 A Maybe that's then the wrong -- I don't
21 know that -- John Rockwell is his name. I'll refer
22 to him as "John," if that's okay.

23 Q As long as there are no other "Johns" in
24 this case.

25 A No. I'm sorry. That's just who I --

1 he's John to me. So John -- I don't know whether
2 John complained to me.

3 It was more that I had complaints about
4 John, and ultimately he had threatened -- and I'm
5 going from memory here but at least one person, and
6 so in the context of all of that I do remember
7 sitting down with John, and he was a distressed
8 person, and he had complained that, basically, there
9 was too much pressure and that people weren't showing
10 him respect, and so that was, you know -- whether
11 that's discrimination or not I don't know.

12 Harassment, I think was your question. I
13 think he felt harassed, but he was also clearly a
14 mentally distressed person, as far as I was
15 concerned.

16 Q When were these discussions,
17 approximately?

18 A With John?

19 Q Yes.

20 A I believe this all happened in 2004, and
21 it may have been -- it may have started even in 2003,
22 but it was around that time frame.

23 Q Did he at any point file anything with HR
24 or with you, in a written form of any sort, of any of
25 his complaints?

1 MR. KNUDSEN: You mean, did he make a
2 written complaint of harassment or discrimination, or
3 do you mean did he just sort of complain about this
4 too much pressure sort of ambiguous thing?

5 MR. KODAM: Well, I kind of intentionally
6 left it open-ended because I don't know exactly how
7 John Rockwell was describing it.

8 I guess the complaints that you
9 understood, that the witness understood, was that
10 ever put in writing that you're aware of?

11 THE WITNESS: Should I answer?

12 MR. KNUDSEN: Yes, you can answer.

13 THE WITNESS: I don't remember it ever
14 being in writing.

15 BY MR. KODAM:

16 Q Was HR ever involved in the John Rockwell
17 situation?

18 A Oh, yes, without a doubt.

19 Q And what was the resolution of that?

20 A Well, the resolution was ultimately, I
21 think, that he retired. I think it was part of a
22 settlement.

23 Q Was adverse action brought against
24 Mr. Rockwell?

25 A Yes, and let me back up. Adverse

1 action -- I'm not very well versed in some of the
2 technical terms of art that -- and I don't know if
3 you mean adverse action as a term of art.

4 Adverse action in sort of a common meaning
5 I would say, yes, there was, and let me just
6 elaborate that he at one point threatened and made
7 threats, and I'd heard that he was just a little bit
8 mentally -- crying at his desk, for example, and had
9 verbally threatened Brian Nguyen, who was a banking
10 deputy -- not directly to him, but people overheard
11 him make these threats.

12 So I let HR know. I remember talking with
13 John at length about this, and he didn't repeat any
14 of these threats to me, but I just said, basically,
15 "What's going on, John? How are you feeling? How's
16 the family?" Those sort of conversations, and long
17 story short we ended up, once HR got involved -- and
18 I remember we also got statements from witnesses
19 saying that, well, you know, can you describe what's
20 been going on with John? What did he say? How's he
21 looking?

22 And ultimately we got the Attorney
23 General's office involved. There was an action
24 brought for a temporary restraining order.

25 MR. KNUDSEN: At this point I'd just

1 caution the witness. You may continue your answer.
2 Just please don't tell Mr. Kodam anything about
3 communications that might have occurred between
4 yourself or with HR through the A.G.'s office.

5 THE WITNESS: Sure. And just to conclude
6 that, we got a TRO, I remember. I remember at one
7 point the CHP came into the office which is, as you
8 can imagine, not an ideal situation for an office,
9 and I was in the room with the CHP and John Rockwell,
10 and I'm trying to remember why he was there, but I
11 guess that was standard operating procedure, and so
12 at the end of all of this John, basically, retired.

13 At some point he wasn't in the office,
14 and the A.G.'s office was involved and, you know, I'm
15 not technically sure how it was all resolved, but
16 from what I know he retired, and I had a position
17 that I was ultimately able to fill with somebody
18 else.

19 BY MR. KODAM:

20 Q Going back to my last question, just so I
21 get -- I understand what you're saying.

22 Was there a formal adverse action, as the
23 term of art is used in the public employee world, for
24 suspension, termination -- was that ever brought on
25 John Rockwell?

1 MR. KNUDSEN: One second. Objection to
2 the extent it calls for speculation from this
3 witness.

4 MR. KODAM: If he knows.

5 MR. KNUDSEN: I think, based on his
6 earlier testimony, it was pretty clear he does not.

7 You may answer if you know.

8 THE WITNESS: I'm not sure.

9 BY MR. KODAM:

10 Q Okay. And then what were the issues
11 raised by Kerou Li? I probably botched that badly.

12 MR. KNUDSEN: Objection, again, to the
13 extent this would be unlike any of the claims raised
14 in this case.

15 The witness may, however, answer.

16 THE WITNESS: So can you -- I'm sorry --
17 just repeat the question?

18 BY MR. KODAM:

19 Q What were the complaints raised by
20 Kerou Li?

21 A He wanted to transfer out of our division
22 to the Banking Division, and he wrote an email that
23 was sent out globally to the Commissioner, but also
24 to everyone in San Francisco, and I think it went
25 basically all over DFI, that was highly critical of

1 me, personally, the division, all of his colleagues,
2 made accusations. I don't know if the word
3 "harassment" was ever in there.

4 And then there were subsequent emails as
5 part of this email chain because the Commissioner was
6 like, hey, what's going on here? And in the -- and,
7 I mean, some of these emails were written, I think,
8 at 2:00 in the morning, really odd times, and so
9 that, I would say, is a complaint of harassment or
10 discrimination.

11 I don't remember if he used the words,
12 but it was clearly a complaint about the workplace
13 and how -- it was his way of asking to be
14 transferred.

15 Q If you can narrow it down at all, can you
16 give me just the gist of what his exact complaint was
17 as it related to you?

18 A I'm not --

19 MR. KNUDSEN: Well, hold on a second.
20 Objection. One, it may call for speculation,
21 depending on unless the point was made directly to
22 this witness, but of more concern to me is, based on
23 the witness's testimony, again, it appears very
24 unlike the issues in this case which, of course,
25 involve race and age discrimination or retaliation,

1 and what seems to be described here is some sort of
2 dispute over, you know, a transfer, and maybe
3 people -- maybe someone dissing his colleagues.

4 That said, you can answer.

5 THE WITNESS: I'm sorry. I'm going to
6 ask you again. I just want to be sure I'm answering
7 your question. I don't really actually remember what
8 the question was.

9 MR. KODAM: When someone objects I forget
10 what I've asked usually. Chris does that just to
11 keep me on my toes.

12 MR. KNUDSEN: Exactly.

13 BY MR. KODAM:

14 Q If you are able to, can you give me just
15 a short gist of what his exact complaints were about
16 you, if you understood it?

17 MR. KNUDSEN: And same thing -- please
18 don't guess. I mean, he's talking about stuff that
19 you actually know.

20 THE WITNESS: I don't really remember the
21 details of what was in the email. I'll tell you this
22 much. The email clearly showed that this person was
23 distressed, and it was all over the place. There was
24 factual inaccuracies that were stated in there.

25 It was, obviously, personally

1 embarrassing to me. I felt really bad about what it
2 implied about people in our group, his colleagues.
3 It was just a terrible, terrible email. The fact
4 that it went out publicly was just awful for a lot of
5 reasons, but I don't remember the details. It was
6 just all over the place.

7 That's what I recall about the email.
8 This is clearly a distressed person who was just
9 upset and throwing things against the wall and
10 desperate -- because that was an act of a desperate
11 person to send that email out to everyone and --
12 including the Commissioner.

13 BY MR. KODAM:

14 Q When was this approximately?

15 A Oh, boy. It would have been summer, like
16 spring -- June, give or take, something like that.
17 Maybe May of -- and the year -- that's what I'm
18 trying to remember is who were the managers. I'm
19 going by who were the managers at the time.

20 It could have been 2008 or 2007. It
21 might have been 2008. I think so. Anyway --

22 Q And what was the final resolution of that
23 issue, if you know?

24 A The final resolution is he was
25 transferred to Banking.

1 Q Now, I'm going to refine my question that
2 I asked earlier.

3 Had there been any other complaints
4 against you, while you've been at DFI, based on race?

5 MR. KNUDSEN: Objection. That misstates
6 the witness's testimony. It didn't sound to me like
7 he stated that either Mr. Rockwell or Mr. Li were
8 claiming some sort of racial discrimination or
9 harassment.

10 MR. KODAM: I was just going to finish my
11 question to say besides the Lake complaint.

12 MR. KNUDSEN: I apologize. I did exactly
13 what you told the witness not to do. I apologize.

14 THE WITNESS: So if I understood your
15 question, other -- because I don't think of Rockwell
16 or Kerou as race or harassment, although there may
17 have been words like "harassment" somewhere in the
18 course of some of these emails, but the answer is no.

19 BY MR. KODAM:

20 Q Similar question. As far as you know,
21 outside of the Lake complaint, have there been any
22 other complaints against you based on age --

23 A No.

24 Q -- while you've been at DFI? Sorry.

25 A No.

1 Q All right. Now, we'll take a little
2 breather and do something relatively easy.

3 Where did you go for high school?

4 A Regis High School in New York City.

5 MR. KODAM: Can we go off the record for
6 a second? Why don't we take a five-minute break.

7 I've got to take this call.

8 (Recess.)

9 BY MR. KODAM:

10 Q And back on the record.

11 When did you graduate from high school?

12 A 1984.

13 Q What educational institution did you go
14 to after that?

15 A I went to Georgetown University.

16 Q And I presume you graduated.

17 With a degree in what?

18 A 1988, in economics.

19 Q And then where'd you go to law school?

20 A Hastings, Hastings College of the Law.

21 Q What year did you graduate?

22 A 1993.

23 Q I don't know why I asked what year since
24 I already knew that, but hey. When did you first
25 become aware of Julio Prada?

1 A Probably in early 2001.

2 Q How did you meet him?

3 A Just in the office. The San Francisco
4 office really isn't that big. So just casually. I'm
5 sure that's how we met originally, and then there may
6 have been some work assignments. Over the time, as I
7 started doing some of the money transmitter
8 assignments, I'm sure I probably interacted with
9 him.

10 So I've just known him because he's in
11 the office and probably have had some work-related
12 assignments.

13 Q Okay. And have you ever socialized with
14 him outside of work?

15 A I'm sure we've had a few lunches here and
16 there.

17 Q Any other socialization besides possibly
18 a few lunches?

19 A Not on weekends. I mean, there may have
20 been, you know, like staff conferences overnight. So
21 we've had dinner and drinks, that sort of thing.

22 Q When did you first become aware of
23 Donald Lake?

24 A Probably, let's see, 2003. Probably the
25 fall of 2003.

1 Q How did you become aware of him?

2 A I'm just trying to make sure. Fall of
3 2003. Because I was hiring a FIS position. "FIS" is
4 an acronym for Financial Institutions Supervisor.

5 I had -- in our group we never had a FIS
6 before, and I don't remember all of the details, but
7 essentially we had a FIS position that was granted to
8 us, and so I was interviewing folks for that
9 position, and he was one of the applicants.

10 Q Was he given the position?

11 A No.

12 Q Why not?

13 A Because there was a better candidate.

14 Q What differentiated him -- what
15 differentiated the better candidate?

16 MR. KNUDSEN: Objection. This is outside
17 the scope of discovery. Irrelevant. It's not a
18 charge of discrimination in the complaint and,
19 anyway, it's way old.

20 Having said all that, the witness may
21 answer.

22 THE WITNESS: Could you repeat the
23 question just so --

24 MR. KODAM: Sure. As long as we don't
25 have that long objection again.

1 THE WITNESS: Isn't it easier just to
2 have the court reporter repeat it?

3 MR. KODAM: No. I can repeat it,
4 although I'm still trying to figure out the "way old"
5 objection. I don't think I've ever heard that kind
6 of objection in my life.

7 MR. KNUDSEN: It's irrelevant.

8 BY MR. KODAM:

9 Q The better candidate who was picked over
10 Mr. Lake, what was he or she better at that you chose
11 them instead of Mr. Lake?

12 A He was -- had more experience in the
13 Money Transmitter Division, knew that industry, than
14 any of the other candidates, Number 1.

15 Number 2, he was in the San Francisco
16 office. So there were no issues there. Some of the
17 candidates were in other offices. I'm trying to
18 remember if they were going to move or not, but
19 anyway Robert was there. So that was definitely
20 helpful.

21 That wasn't an issue, and Robert --
22 Robert Mbama, M-b-a-m-a. I think I spelled that
23 right. M-b-a-m-a, I think. So he -- and he's just a
24 really nice guy. Robert's a great guy. So -- but
25 there were other candidates that were really good,

1 too.

2 Q At some point did you start overseeing
3 Mr. Lake?

4 MR. KNUDSEN: You mean, directly?

5 MR. KODAM: Yes.

6 THE WITNESS: I don't think I ever
7 directly supervised him in terms of like an org chart
8 with a direct line, if that's what you mean. He was
9 never my direct report.

10 BY MR. KODAM:

11 Q Let's back up. I was going to do this
12 anyway, but we'll just get to it now.

13 You're the Deputy Commissioner of Money
14 Transmitters at DFI; is that correct?

15 A Uh-huh.

16 Q For the record, you have to say "yes" or
17 "no." A nod or "uh-huh" won't work on the
18 transcript.

19 A The answer to that question is yes.

20 Q Okay. Thank you. Let's start in 2003.

21 Was there anyone between you and the
22 three or five other people, however way you want to
23 describe it?

24 A Yes.

25 Q Who was in between you?

1 A Julio Prada.

2 Q What his position?

3 A FIM, which is short for Financial
4 Institutions Manager.

5 Q And as the FIM, he then oversaw the other
6 three or five people?

7 A Yes.

8 Q And then at some point the structure
9 expanded; am I correct?

10 A Correct.

11 Q Okay. How did it expand, and when did it
12 expand?

13 A It would be very difficult for me, just
14 off the top of my head, to give you a perfect
15 chronology of how many folks we had and who was there
16 and assigned to what task because we have changed so
17 much over the last seven years that literally,
18 from -- I don't know if there's been a single
19 six-month period where I've been in charge of that
20 group where there hasn't been some fundamental
21 change, and even now, where we have 28 that are in my
22 group, we're talking about reorganizing staff.

23 So I just want to sort of lay that down
24 as sort of a preface to everything we talk about in
25 terms of the org chart. It would be -- we've just

1 been in a constant state of sort of growing, and
2 we've had so much work to do that whenever there was
3 a resource or a person who could come in, even for a
4 six-month period, particularly in that early period
5 of time, I would just say thank you. Please. We
6 need anybody. We were just throwing bodies at issues
7 that were coming up.

8 So in answer to that question --
9 actually, repeat the question. I don't know if I've
10 answered it or not.

11 Q Based on what you've told me, let me
12 adjust my question. In 2005, what was the
13 organizational structure?

14 A 2005?

15 MR. KNUDSEN: You mean, sort of at the
16 top level there would be the Commissioner. Here are
17 the FIMs and then the examiners underneath?

18 So he's just asking for a shorthand
19 version.

20 THE WITNESS: Okay. I'm still trying to
21 think. I wish I could just say -- I really need to
22 think about that. I was in charge. Julio was a
23 FIM. In 2005 we still only had one FIM and I believe
24 only one FIS, and when did Robert leave. I guess it
25 would have been Robert Mbama. I think he was still

1 there. Yeah, Robert Mbama, I think, retired
2 June 30th, 2006, and so it would have been
3 Robert Mbama as the FIS with a box from him to Julio,
4 and I don't really recall how many examiners we had
5 in 2005.

6 Don would have been there, and he is a
7 senior. SFIE is what we refer to them as. He would
8 have reported to Julio because SFIEs cannot report to
9 FISSs. So there would have been Don, possibly Pat Lum
10 and Ros, as SFIEs, reporting to Julio, but they were
11 only half time. So they spent half their time doing
12 other things and half of the time working on money
13 transmitters.

14 Below Robert would have been probably,
15 geez, maybe four or five examiners. I think it would
16 really depend what time of year we're talking about
17 because, again, there hasn't been a six-month period
18 where our org chart was -- it's constantly changing.

19 BY MR. KODAM:

20 Q I'm going to back up a second.

21 In 2003, do you remember the names of the
22 three people who were there who were the examiners?

23 A What time period?

24 Q 2003.

25 A So when I first got there? Yeah. There

1 was Julio, Robert, Robert Mbama, the person who -- he
2 wasn't -- he was an SFIE, I believe, at the time.
3 John Rockwell.

4 Q Was he an SFIE or FIE?

5 A He was an FIE, and Melly Brown, who was
6 not an examiner. She was sort of -- I guess the way
7 to describe her is support staff, and those are the
8 actual physical bodies, and we may have gotten Melly
9 after I started. Some of that's vague, but that's,
10 basically, the people who -- that was our group.

11 Q Now in 2003, basically, Julio Prada
12 oversaw two people from my understanding; is that
13 right?

14 A Well, I would say --

15 Q Oh, sorry. There were three.

16 A Yeah, there were three. The timing of
17 it -- I'm not exactly sure when in 2003 but, you
18 know, basically them, and, in addition, we had
19 examiners who were in the Banking Division who would
20 be assigned to help us out on exams.

21 And it was never really clear how many,
22 and we would beg, borrow and steal, basically, but we
23 had some folks who sort of rotated in and out, and
24 probably somewhere in the course of 2003 -- well, I
25 guess I hired Robert as an FIS at the end of 2003.

1 So I replaced his vacancy with someone,
2 and then we got Don at the -- I guess that was the
3 end of 2003 when Don, on a volunteer basis, came
4 over. See what I mean? We just sort of slowly but
5 surely -- I guess that's what I've been effective at
6 is trying to get people come in, whether through
7 changes in the budget or convincing folks. Please
8 help me out.

9 Q You're a good salesperson.

10 A You know, but that's been honestly half
11 of what I've done over the last seven years.

12 Q I'm going to, again, rack your brain a
13 little here, but in 2005 do you remember who the four
14 or five not SFIEs but FIEs were who were under
15 Julio Prada?

16 A I think at the time we had Duval Ghandi
17 (phonetic), Omar Shaheed (phonetic), Jennie Wong.
18 There was another woman who was an examiner who left,
19 but she was around at that time. I think her name
20 was Susie something or other.

21 I think there was one more, but in terms
22 of timing I'm not sure if -- oh, Oscar Lumen,
23 L-u-m-e-n. So I'm totally spacing on him, but he was
24 definitely there by 2005. So I think that's the
25 five. I think, you know, that would be the five

1 folks.

2 Q I'm going to go back and talk about
3 Donald Lake and him coming over.

4 Were you involved in that?

5 A Yes.

6 Q Okay. What is your recollection of what
7 led to Mr. Lake coming to Money Transmitters?

8 MR. KNUDSEN: One second. Objection to
9 the extent it calls for speculation.

10 Obviously, when you're answering, please
11 answer based on your personal knowledge and don't
12 speculate as to what other people might have thought
13 or -- just give what you know and not what you're
14 speculating about what you think someone might do.

15 THE WITNESS: Okay. What I recall is
16 Carol Chesbrough approaching me, because she knew
17 that we needed help, and basically saying hey. I
18 think there's someone in the Sacramento office who
19 might be a really good fit for you, and I said
20 great. Tell me who he is.

21 And that's how this -- you know, and from
22 that point -- I remember being in Sacramento and
23 meeting him and, you know, we hit it off, and then
24 next thing I know he was assigned to the Money
25 Transmitter Division.

1 My understanding, also, was that it was
2 temporary. It was a one-year deal, and if he wanted
3 to stay he could, and if we wanted to keep him we
4 could.

5 BY MR. KODAM:

6 Q Was Carol Chesbrough still the Chief
7 Deputy Commissioner at the time?

8 A Yes, and she works out of the Sacramento
9 office. That's her headquarters.

10 Q And then with regards to the temporary
11 nature of this assignment, was there any sort of
12 agreement or anything that you recall or are aware of
13 whereby Mr. Lake came over?

14 A You know, I think there was. I don't
15 know why. I think -- but I believe that there was
16 some sort of written agreement. It wasn't because I
17 requested it. I think it was -- I'm speculating.

18 I think there was a written agreement. I
19 didn't request it, but I think I've heard Don refer
20 to it in some context or another, but the written
21 agreement just memorialized what I described to you.
22 It wasn't an issue for me. That's just my
23 understanding, and I think -- but for some reason I
24 think somewhere along the line somebody wanted to get
25 it memorialized.

1 Q Were you involved in drafting this
2 agreement?

3 A For him coming over?

4 Q This written agreement you've just
5 described.

6 A No, no, I wasn't. I don't really
7 remember. I may have --

8 MR. KNUDSEN: You answered the question.

9 THE WITNESS: Yeah, I don't remember
10 being involved in it.

11 BY MR. KODAM:

12 Q Did you sign the agreement or anything,
13 if you recall?

14 MR. KNUDSEN: I'm going to object. Calls
15 for speculation.

16 BY MR. KODAM:

17 Q If you recall?

18 A I don't recall.

19 Q Do you remember if the agreement included
20 any provision for working for the United Way?

21 A The United Way?

22 Q Yes, doing charity work for the
23 United Way?

24 A Oh, I see. Doing charity work. No.

25 Q No, you don't remember or, no --

1 A No, I don't remember. I would be
2 surprised if it had anything like that in there.

3 Q Who supervised Mr. Lake when he came
4 over?

5 A Julio. Julio Prada.

6 Q I'm going to come back to Mr. Lake,
7 obviously, many times over the next couple of days,
8 but let me pause right here.

9 During your time that you've overseen
10 Julio Prada, have you had any other complaints of
11 discrimination or harassment against him, other than
12 what Mr. Lake has raised, and I'm going to include
13 Rosalyn and Pat Lum, at least their '05 complaint, as
14 part of that since it's kind of related but anything
15 else besides that?

16 MR. KNUDSEN: Hold on one second. First,
17 let me make sure I understand your question. So
18 you're saying other than Mr. Lake and the allegations
19 he's raising in this lawsuit and his written
20 complaints internally, which include, for purposes of
21 your question, the Patrick Lum and Rosalyn complaint?

22 MR. KODAM: Correct.

23 MR. KNUDSEN: Okay. And then the witness
24 may answer. However, based on what happened last
25 time, you're basically asking for discrimination and

1 harassment in the legal sense where someone is
2 saying, hey, I got racially discriminated against,
3 racially harassed, as opposed to someone saying, gee,
4 I've got work issues with you, or are you asking for
5 that, too?

6 MR. KODAM: I'm intentionally leaving it
7 vague.

8 MR. KNUDSEN: Okay. I'll object --

9 MR. KODAM: I'll narrow it down later.

10 MR. KNUDSEN: Okay. So right now he's
11 asking for any complaints that you thought of as
12 asking for discrimination or harassment.

13 I'm going to object that it calls for a
14 legal conclusion, and the way it's phrased asks for
15 information outside the scope of discovery,
16 potentially confidential to other people.

17 THE WITNESS: The answer is no.

18 MR. KODAM: Longest way to get a "no."

19 BY MR. KODAM:

20 Q I'm sure the answer is probably the same,
21 but just for comprehensive purposes have you ever
22 received any other complaints, other than Mr. Lake's,
23 against Julio Prada as it relates to race
24 discrimination?

25 MR. KNUDSEN: Same objections.

1 THE WITNESS: I think the answer is no
2 and the reason -- I'm just trying to figure out if,
3 you know, in 2005 -- we're going to get to this, I'm
4 assuming -- Pat Lum, Ros and Don complained about
5 Julio.

6 MR. KNUDSEN: He's saying other than
7 that.

8 THE WITNESS: Other than that, the answer
9 is no.

10 BY MR. KODAM:

11 Q Unless Pat Lum and Ros complained
12 separately, assume any question I ask, unless I tell
13 you otherwise, includes their complaint --

14 A As part of the --

15 Q -- that was attached to Don's.

16 A Okay. I understand now. Again, the
17 answer is no.

18 Q Same question but, instead of race, age.

19 A No.

20 Q All right. Were there any issues during
21 that first year with Mr. Lake and his work with the
22 Money Transmitter Division?

23 MR. KNUDSEN: Objection. Vague and
24 ambiguous. You mean, issues that this witness saw or
25 that were reported to him by Mr. Prada?

1 MR. KODAM: I'm leaving it vague and
2 ambiguous intentionally.

3 THE WITNESS: Well, I'll answer in the
4 sense -- I want to be clear -- that I understand.

5 You mean like work-related issues as
6 opposed to -- I mean, his performance in the office
7 and getting along with other people as opposed to
8 here's a stored value card issue we've never seen
9 before. Don, can you help us out on this?

10 BY MR. KODAM:

11 Q Yeah. I'm referring to the former.

12 A Okay. So the answer is no. I mean, at
13 least that I was aware of during that period, the
14 answer is no.

15 Q Now, you're aware of the complaint letter
16 received from Mr. Lake, Rosalyn -- I'm not even going
17 to pronounce her last name --

18 A Exactly.

19 Q -- and Patrick Lum in 2005.

20 What is your understanding of what led to
21 that letter?

22 MR. KNUDSEN: Hold on. Object to this
23 line in that it calls for this witness to speculate.

24 Please don't speculate as to what you
25 think people were thinking. Only base your testimony

1 on things you know or conversations you had, and if
2 it's the latter please tell Mr. Kodam that.

3 THE WITNESS: Okay. I'm sorry. Can you
4 maybe reread the question.

5 MR. KODAM: Please.

6 (Record read.)

7 THE WITNESS: My understanding is that
8 they felt that the -- I don't -- they felt like Julio
9 was mean. I honestly can't think of another word.
10 They just felt like Julio treated them in a mean
11 manner. It was a lot of hurt feelings as much as
12 anything else.

13 BY MR. KODAM:

14 Q How did you receive the letter?

15 A You know, I can't remember if it was by
16 email. It must have been by email.

17 Q Was it from Mr. Lake or one of the other
18 two?

19 A Oh, I don't remember.

20 Q And then what did you do when you
21 received the complaint?

22 A Well, I read it and, you know, was very
23 surprised, and the first thing I would have done is
24 call John Connell, who was at the time the Chief
25 Administrative Officer, and he basically is in charge

1 of the HR function there.

2 I'm sure I talked to him to get his
3 advice. What do we do with this. It's part of our
4 training, you know, this is what you do, and I
5 recognized this immediately as something I needed to
6 get HR involved in.

7 Q And what did John Connell tell you, if
8 you recall?

9 A You know, I think the idea was, you know,
10 let's talk to people. I think, from his point of
11 view, he was trying to figure out if he needed to do
12 a formal investigation, and from my point of view I
13 just wanted to resolve it, and so this isn't one
14 conversation. This is a series of conversations.

15 I do remember being in Sacramento. At
16 that time I used to go to Sacramento a lot more than
17 I do now because the Commissioner was there and Carol
18 was there, and the Commissioner now is in
19 San Francisco. So I just walk down the hall and talk
20 to him.

21 So there was a lot more reason for me to
22 be there, but I certainly remember at least
23 specifically one time where I was in John Connell's
24 office and we were talking about how to resolve this,
25 and I basically said to John, "We've got to talk to

1 people," and part of what I did is I talked to Pat,
2 talked to Ros, talked to Don at length, all of them
3 at length, to figure out what was going on.

4 I talked to -- I'm sure I talked to
5 Jeanette, to Robert, to Oscar, to other folks to get
6 their sense of what was going on. So that's what I
7 did -- if that was your question. I'm sorry.

8 Q You kind of diverged from my actual
9 question.

10 A Okay.

11 Q Let me go back to the actual question and
12 make sure we've concluded it.

13 A Sure.

14 Q Was there anything else, with regard to
15 your conversation with John Connell, that you haven't
16 advised me? And I know it's not one conversation.
17 It's a series, but --

18 A I don't think so. Well, maybe -- the one
19 thing, too, that I remember that he specifically told
20 me is, "Look. If everybody is happy, there's no need
21 to do a formal investigation," and I said, "Okay.
22 Fine. I think I can get to a situation where
23 everybody will be happy."

24 Q Okay. Prior to receiving the complaint,
25 did you have any inclination or had you heard

1 anything, whether directly or indirectly, from anyone
2 of these same concerns that were raised in the
3 complaint?

4 MR. KNUDSEN: Objection. Calls for
5 speculation on what was in the complaint. It hasn't
6 been shown to the witness. You mean this sort of
7 idea that Julio Prada was mean to these people, like
8 the witness testified?

9 MR. KODAM: Well, mean, as well as some
10 of the specific stuff in the complaint that was
11 raised.

12 MR. KNUDSEN: And that's my problem. He
13 hasn't testified as to -- I mean, in terms of his
14 testimony, it's hard to tell what he recalls, and so
15 the problem is that if you show him the thing he
16 might say, oh, this allegation, I remember that, or,
17 oh, I don't remember that, but sitting here right
18 now, you know, he might not -- you know, there might
19 have been a specific that was discussed which he has
20 no idea is part of that complaint.

21 That's my issue, I think.

22 MR. KODAM: We will get into that. Don't
23 worry. Don't get the cart before the horse.

24 BY MR. KODAM:

25 Q Do you want me to repeat the question?

1 A Yes, please.

2 MR. KODAM: Can you repeat the question,
3 and I'll assume the same objection to save time.

4 MR. KNUDSEN: Of course.

5 (Record read.)

6 THE WITNESS: I'm trying to remember what
7 was specifically in that complaint, and what I
8 remember is being very, very surprised by what they
9 were saying in the complaint, being, I mean, floored
10 by it. So I guess is answer is no.

11 BY MR. KODAM:

12 Q All right. Let me go back to kind of
13 your extension of the John Connell discussion. You
14 said you spoke to people.

15 Can you just name for me all of the
16 people you spoke to as a result of receiving this
17 complaint? I mean, you mentioned some --

18 A Well, to John Connell for sure. I
19 probably -- I'm certain I spoke to Carol Chesbrough
20 about it. She's my immediate report, and, you know,
21 I tell her things. I'm sure I spoke to her about
22 it.

23 There was a woman who was our, I think,
24 personnel officer at the time. Her name was Robbin
25 Kliensorge, who I -- and I just really liked her.

1 Anyway, so I'm sure I spoke to Robbin about this.

2 And then in terms of, you know, my
3 staff -- these are all people in Sacramento who are
4 on the HR side of the thing, the administrative side
5 of the thing. On my staff I'm certain I spoke to
6 Ros, to Pat Lum, to Don Lake, to Julio, Robert Mbama,
7 Jeanette Barazza, Oscar Lumen.

8 I may have spoken to other folks here and
9 there, but they're really young and new, and I
10 frankly probably didn't want to involve them in it.
11 You know, when things like this happen I try to
12 contain it so it doesn't -- there isn't a whole lot
13 of gossip and people aren't distracted and so on and
14 so forth.

15 Q Let me break this down on the people you
16 listed. What did your discussion with Carol
17 Chesbrough involve?

18 A I don't recall specifically.

19 Q What about -- do you recall your
20 discussion with Robbin Kleinsorge?

21 A Not specifically, no.

22 Q What did your discussion with Rosalyn
23 involve?

24 A I wanted to find out -- I mean, as I
25 recall, there was an email and actually a memo that

1 had sort of specifics, the details of which I'm not
2 remembering. What I do remember -- so talking to
3 Ros, trying to find out what's going on here. How do
4 you feel? How's work going? You know, what's going
5 on with you and Julio? What do you want? You know,
6 how can we make this better?

7 These would be the subjects that I spoke
8 about, and it wasn't an inquiry in that sense,
9 although obviously I wanted to get some information,
10 but it was really more about what's your point of
11 view, and how do we make this better?

12 Q What did she tell you?

13 A Well, as I recall, she basically said --
14 and that's why I said this at the beginning -- that
15 Julio is mean. He send emails to me that hurt my
16 feelings. I mean, literally that's what I remember
17 Ros telling me. Literally -- if those were the exact
18 words that were used I don't know, but that was
19 definitely what we were speaking about, hurt
20 feelings, you know, about the -- we were talking
21 about the challenges of the work, you know.

22 What do you think that, you know -- she
23 thought she was doing a certain quality of work.
24 Julio didn't agree that it was up to the standards
25 that we needed was kind of a summary and, you know, a

1 summary of how she felt about it, and that didn't
2 make her feel good in terms of, you know, a person.

3 That's, basically, what I remember
4 talking to her about.

5 Q Rosalyn, Pat Lum and Don Lake were all
6 senior financial -- SFIEs?

7 A SFIEs.

8 Q What are, generally, their job duties
9 back in 2005? I should say what were?

10 A You know, an SFIE back then in our group
11 would have been responsible for being in charge of
12 exams primarily. Going out there, following the work
13 program, perhaps being the EIC, which involves --
14 "EIC" means Examiner in Charge, meaning you have sort
15 of delegated authority to really say I'll do this
16 work. You do that work -- and then being responsible
17 for bringing it all together in a written examination
18 report at a high level.

19 So, you know, you need to sort of know
20 what you're doing. The work needs to be a certain
21 quality. I just have a higher expectation of work
22 that's being done by seniors, and back then they were
23 primarily in the field doing exams. That's true for
24 Ros. That's true for Pat Lum.

25 The other thing about Ros and Pat Lum is

1 they were rotated in for -- basically, 50% of their
2 time would be doing the work I just described to
3 you. Ros, the other 50% of the time, would be
4 working for the banking side examining trust
5 departments of banks.

6 Pat Lum would have been doing what we
7 call the local agency security program, which he,
8 basically, manages. "Manages" may not be the right
9 word. He's the person that does that work.

10 So Don Lake would have done everything I
11 described to you, plus applications, special
12 projects, you know, higher-level, important work. I
13 mean, there's just work that comes in that has maybe
14 nothing to do with the exam or with an application.
15 Stuff comes up that needs to be addressed, and Don
16 may have been -- he would have been a resource we
17 would have looked to, I think, even still in 2005 but
18 even more recently. So here's Don. Let's use him on
19 this project.

20 Q Who would review these reports that were
21 completed as part of these exams?

22 A The general process is the Examiner in
23 Charge would write it up, but some of the other
24 examiners might be given responsibility to write up
25 portions of the exam, but basically, the Examiner in

1 Charge would be responsible for putting it all
2 together and writing it up.

3 In our group it would go to Robert Mbama
4 first to review and edit and then also to Julio Prada
5 after that. Ideally Robert would have had a chance
6 to review and edit it before it got to Julio. It
7 didn't always work out that way because sometimes
8 Robert was busy on something else. So maybe it would
9 go to Julio, or they would work together.

10 We were still small. I told you how
11 we've been, you know, dynamic in the sense we were
12 growing, different moving parts. Always more work
13 than people. Always more work than people, and we
14 needed to get all of the work done. So we didn't
15 always necessarily follow that, but that's the ideal
16 in terms of an exam report goes from EIC to FIS to
17 FIM, and then it gets written and sent out.

18 Q Did these reports ever land on your desk?

19 A They always did, but I'll just
20 extrapolate to explain that a bit more. Usually they
21 went out without me reviewing or editing them. I may
22 know, generally, the rating.

23 We have a CAMEO rating. "CAMEO" is short
24 for Capital Assets Management Earnings Operations.
25 There are components. Each one gets rated 1 to 5.

1 So I may know the general idea of whether they're
2 satisfactory or unsatisfactory, what their rating is,
3 but basically I'm not involved in the nitty-gritty of
4 writing the thing up or really even reviewing it.

5 On occasion I will be when there is a
6 particular issue that's just higher level that
7 needs -- that I feel is important enough for me to
8 get involved in, but I generally don't want to meddle
9 in the examination process. I kind of feel just,
10 personally, that that's, you know -- it's delegated
11 to folks, and the culture of the place is you don't
12 want to overrule folks. If they have an opinion
13 about this, and there's a basis for it, I respect
14 that and I let them -- I just sort of, you know, let
15 them stand on their own work.

16 MR. KODAM: I'm going to take a
17 five-minute break and use the facilities if you don't
18 mind.

19 MR. KNUDSEN: Okay. I think it's been
20 about an hour anyway. It's 11:40.

21 (Discussion off the record.)

22 (Recess.)

23 BY MR. KODAM:

24 Q Back on the record.

25 Prior to the 2005 complaint from the

1 three SFIEs, were there any issues with any of their
2 work product?

3 A Yes.

4 Q All of them or certain -- or just one or
5 two of them?

6 MR. KNUDSEN: Hold on one second. Before
7 you answer that, I forgot. Objection to the extent
8 it calls for speculation from this witness.

9 You can answer.

10 THE WITNESS: All of them.

11 BY MR. KODAM:

12 Q Okay. Let's pick one. Let's start with
13 Patrick Lum. What work product issues was he having
14 immediately preceding the complaint in 2005?

15 A That he didn't have a very high level of
16 analytical ability -- is primarily what I've heard.

17 Q Is this something you observed or just
18 heard?

19 A Heard.

20 Q Who'd you hear it from?

21 A You know, I don't recall. I can tell you
22 that, generally, when I heard things at that time it
23 would be from Julio, from Robert. Mostly them.

24 Also, there was a fellow named Tom Fong,
25 who was a retired annuitant who, by that time, we

1 were able to bring in and hire, basically, to help
2 Julio out. Tom is a retired FIM. So he would come
3 in and, essentially, I felt like I had a FIM and a
4 half, if that makes sense, and so I would have talked
5 to Tom about it, and so those are the folks I would
6 have heard about performance issues from.

7 Q Any other performance issues at that time
8 as it related to Patrick Lum?

9 A Well, I actually remember now a specific
10 conversation. I forget with who. I guess I heard
11 this a couple of times, and it was -- I mean, you
12 know, so I think Pat had rated, you know -- one of
13 the components is "M" for management.

14 MR. KNUDSEN: You mean, on the report?

15 THE WITNESS: On an exam report, CAMEO,
16 the "M" stands for management, and there's, you know,
17 a work program, and here's what you need to do to
18 confirm, blah, blah, blah. So, you know, he says
19 it's satisfactory. So, you know, why? You know,
20 normally, you know, that's just all part of the
21 process. It's like, well, because the Board minutes
22 reflected that they are actively involved, whatever.

23 Whatever the subject matter might be,
24 and the story I heard is Pat Lum said, well, I looked
25 at the president's office. It seemed pretty neat and

1 clean. So I figured he was well-organized and so he
2 was on top of things.

3 I'm paraphrasing, and so that story made
4 the rounds pretty quickly.

5 BY MR. KODAM:

6 Q Any --

7 A I would add, though, that -- let me just
8 back up with Pat Lum. Pat is still -- still -- he's
9 retired now. The other work he did, he did
10 competently well. Pat Lum has certain skill sets,
11 and he's very productive in some capacities. It just
12 became clear that this was not one of them.

13 MR. KNUDSEN: What do you mean by "this"?

14 THE WITNESS: He didn't really have the
15 analytical ability. Pat -- I'll be blunt, and this
16 is true for Ros as well and may be true for Don. I'm
17 not sure, but for Pat and Ros working half time in
18 Money Transmitters was a way for them to get a
19 promotion to the senior that I was happy to
20 accommodate each of them with, and particularly in
21 the case of Ros it was primarily a favor to
22 Craig Carlson.

23 It was a way to get them a promotion, you
24 know. I didn't know specifics, but the impression I
25 had was they were going to retire in a couple years

1 anyway, and, you know, and Money Transmitters is easy
2 work. Anybody can do it was, I think, unfortunately
3 part of the assumption here, and from my point of
4 view I was just happy to have people come over and
5 help because we needed bodies.

6 And so what I realized in hindsight and
7 also talking to them in terms of how we resolved all
8 of this -- this is why it's relevant -- what they
9 really wanted was the promotion, and what they didn't
10 realize is that they didn't have the skill sets, and
11 I don't think they were willing to learn the skills
12 that it would require to become a competent examiner
13 in money -- in the Money Transmitter Division. It
14 just wasn't something they were interested in doing.

15 BY MR. KODAM:

16 Q All right. I'm going to put Ros aside
17 for a second because we haven't gotten there yet.

18 Outside the analytical ability, anything
19 else with regards to Patrick Lum's work product?

20 A Nothing else that I recall specifically
21 with respect to examinations because, as I said, the
22 other work he did I think he did competently.

23 Q When you say "other work," are you
24 talking about other work outside of Money
25 Transmitters, or are you talking about other work for

1 Money Transmitters outside of the exams?

2 A I'm talking about outside of Money
3 Transmitters -- the local agency security program,
4 which is the work he did 50% of the time.

5 Q Did you oversee that work?

6 A Oh, the answer is yes. There were times
7 when I had Pat report to other folks, but somewhere
8 along the way I just said look -- because there was
9 no connection. I said, Pat, just report to me --
10 because everybody else was so busy it just didn't
11 seem fair to them.

12 Q Was any written warning or anything done
13 to Pat Lum prior to the complaint to address his
14 deficiencies in analytical abilities?

15 A Say that again? Was any what done?

16 Q Write-ups, performance improvement plans,
17 anything like that done?

18 A Not that I'm aware of.

19 Q Did anyone talk to him about any of his
20 deficiencies that you're aware of?

21 A That I'm aware of, yes, I'm certain that
22 both Julio and I am almost certain Tom Fong and
23 probably even Robert. I suspect all three would have
24 talked to him in some manner about, okay, here's your
25 exam report. What did you do. Please write up this,

1 this and this.

2 This is how we like to do things -- to
3 get him trained. So part of that, in some way, is
4 very collaborative. So I'm sure at some point it was
5 said look. This is what you need to do to get the
6 work product up to snuff. That sort of conversation
7 was certainly had.

8 Q Was there ever anything put in writing
9 that you're aware of?

10 A That I'm aware of, no. Oh, sorry.

11 MR. KNUDSEN: Wait. Are you, by that,
12 including, for example, a -- you know, individual
13 work criticism, or are you -- when you started the
14 question you were talking about, you know, counseling
15 memorandums, that sort of stuff that would be outside
16 of work criticism?

17 MR. KODAM: I'm not even understanding
18 what you're saying. I'm asking put in writing,
19 whether it was through a review, whether it was
20 through an email, whether it was through any form of
21 writing.

22 MR. KNUDSEN: And -- objection. Vague
23 and ambiguous. The issue I have is that, you know,
24 for example, if I have an attorney -- if I have an
25 attorney do a brief for me and I make changes on it,

1 that could be a writing showing the problems the
2 attorney had with the brief.

3 Are you seeking that sort of stuff, or
4 are you saying -- and another thing I could do is
5 write him a memo at the end of the month and say
6 hey. I've noticed over these six briefs you've had
7 the same problem. You need to address it.

8 Are you looking for both those things, or
9 are you just looking for the second one?

10 MR. KODAM: Both those things. Anything
11 in writing. Could be as simple as, hey, you had this
12 analytical issue again -- and he may not know. I'm
13 just asking what he knows.

14 MR. KNUDSEN: Fair enough.

15 THE WITNESS: I don't know.

16 BY MR. KODAM:

17 Q And that's fair enough. I'm just trying
18 to figure out what you know. I understand you have
19 people underneath you who are helping supervise
20 things, and what you know is great and if you don't
21 know just say you don't know. Don't know, don't
22 remember, don't recall -- those are perfectly good
23 answers, and you're doing fine.

24 Let's talk about Rosalyn. What were her
25 work product issues, according to the 2005 complaint?

1 A Yeah, I think, the same. That's
2 what I've heard, that her work just wasn't up to
3 snuff, and, again, I think it mostly revolved around
4 analytical issues and specifically her -- I think, as
5 I recall, the conversation related sort of to her
6 financial analysis. The impression I had was there
7 were some pretty basic things that she just wasn't
8 getting.

9 Q You mentioned this was a way for them to
10 get a promotion to SFIE position.

11 Weren't they already SFIEs?

12 A No.

13 Q Oh, I misunderstood then your earlier
14 testimony. So they were just FIEs at the time?

15 MR. KNUDSEN: You mean, as of 2005?

16 MR. KODAM: Yes.

17 THE WITNESS: They were SFIEs as of 2005,
18 yes, but before they came to work for Money
19 Transmitters in the capacity of financial examiner
20 they were not SFIEs. They became SFIEs once they
21 were transferred half time to Money Transmitters.

22 BY MR. KODAM:

23 Q Was anything done as a result of them not
24 having the capacity to do this work?

25 A It's hard for me to answer that question

1 the way it's posed. I guess the short answer is yes.

2 Q Okay. What was done?

3 A Well, I mean, it was a consequence more
4 of the complaints and then a conversation with each
5 of them about what they wanted to do, you know. You
6 filed a complaint. So what do you think -- I mean,
7 how do we solve this?

8 And with Ros and with Pat, basically, the
9 answer was let them return -- let folks do what they
10 do well, you know. Find their strengths so you can
11 get the most out of them. With Ros, you know, the
12 answer was, basically, you know, thank you, Ros, but
13 just go back to doing trust work. Go back to the
14 Banking Division full time -- because also at that
15 time I knew I was getting other people.

16 So I felt like we could still, you
17 know -- we never had enough, but we had -- we had
18 other folks that might come in, in terms of vacancies
19 and positions. So the solution with her was just,
20 you know, she'll keep the senior, as far as I'm
21 concerned -- and she kept it. She retired as a
22 senior, and she could just go back full time to
23 banking.

24 And, basically, it was the same thing with
25 Pat Lum. He went back to the local agency security

1 program full time. What I'm not remembering is the
2 exact timing of when all of this took place because
3 there would have been some lag between when we
4 decided we were going to do this and when we were
5 able, you know, to make the transition, but they
6 basically went back to the work they were doing
7 previously full time and kept their salary and their
8 job title, you know, on the --

9 Q The SFIE?

10 A Yes, they kept the SFIE position,
11 including the pay.

12 Q Was this a result of the complaint?

13 MR. KNUDSEN: Well, object to the extent
14 it calls for a legal conclusion. The witness may be
15 able to understand.

16 THE WITNESS: The complaint was part of
17 it, obviously. From my point of view, I wanted to
18 resolve it. I wanted people to be happy and also put
19 them to their best use. They're productive people,
20 you know, and so it's not just a result of the
21 complaint.

22 I think it was a result of talking to
23 them and finding out what they wanted to do and what
24 their issues and concerns were, and I'm thankful
25 actually that we were able to work things out.

1 So I guess the complaint certainly
2 precipitated it, but it wasn't, you know, here comes
3 a complaint. Okay. We're going to move you guys to
4 something else without consulting -- I think luckily
5 we were able to happily resolve things in a way that
6 everybody was, basically, happy with.

7 BY MR. KODAM:

8 Q Okay. Let's go now to Donald Lake. What
9 were his performance issues -- actually, strike
10 that. Let me back up.

11 With Rosalyn, as far as you're aware, was
12 anything ever put in writing with regards to her work
13 product issues?

14 A You mean, before 2005? Not that I'm
15 aware of.

16 Q And were the same people who told you
17 about Pat Lum the same people who told you about
18 Rosalyn?

19 A Yes.

20 Q Any specific example for her issues that
21 you have?

22 A Not like Pat Lum where I remember this
23 one anecdote, but with her I do remember it was
24 focused around financial analysis, just her -- I
25 can't remember the specifics, but I do remember it

1 was related to sort of just some sort of simple
2 balance sheet ratio sort of analytical work that she
3 just -- you know, it just wasn't sticking.

4 Q Donald Lake. What were his work product
5 issues prior to the complaint?

6 A Work product issues? I don't know that
7 there were work product issues, per se. At least
8 none comes to mind.

9 Q Okay. Were there other types of issues
10 pre the 2005 complaint?

11 A Yes.

12 Q And what were they?

13 A Generally -- I mean, I guess I would
14 generally characterize them as being -- interpersonal
15 relationships would be one, sort of as a way of
16 categorizing them.

17 Q Say that again? Interpersonal --

18 A Interpersonal issues with his colleagues,
19 and then the other thing that I would generally
20 characterize it as was -- I was aware of this in
21 2005 -- was Don had already had -- you know, he kind
22 of had a reputation as the guy who knew the angles,
23 you know.

24 He'd been in civil service for a long
25 time and sort of, you know, and -- and another thing

1 that just sort of is coming to mind is, you know, we
2 do have a work program, and there's some expectations
3 about what should be done in it, and I do remember
4 specifically, you know, there was sort of a
5 philosophical dispute, is the way I would
6 characterize it, between him and Robert Mbama and
7 also Tom Fong actually about whether -- why do we
8 even bother with this, would be kind of Don's
9 approach.

10 There's this thing called a cash flow
11 statement, and Don just felt like, oh, we shouldn't
12 bother doing it. Why do we do this? And Robert felt
13 that, as a manager and very experienced, felt very
14 strongly it should be part of the work program and
15 part of the exam report, and Don's philosophy was
16 like, first of all, why are we -- see, this is
17 something you do as an examiner. You need to go
18 through there and create the cash flow statement
19 based on information. Don didn't want to do it.

20 So that's something I heard about, and
21 then another thing was he had some other issues in
22 terms of the financials. His philosophy was, well,
23 they get audited by a CPA. I'm just going to rely on
24 the CPA's audited statement, and, you know, that's
25 not how we approach it from a work program point of

1 view, Number 1, and, Number 2 -- well, I don't know
2 that I knew this in 2005. So -- but afterwards I
3 think he took some shortcuts in the work program when
4 he was an EIC.

5 Q What type of shortcuts?

6 A That he wouldn't follow the work program,
7 that he literally wouldn't do things on the work
8 program that probably should have been done, and it's
9 hard to document this. No one wrote him up, but
10 that's kind of what I'd heard.

11 This is information that filtered up to
12 me after the fact. Whether it's true or not, I don't
13 know. I wasn't there. I didn't see it, but this is
14 sort of the kind of thing I'd heard, but as of 2005
15 the whole issue relating to the cash flow
16 statement -- I specifically remember that. So --

17 Q Any other issues, besides what you've
18 already testified, related to Don Lake?

19 MR. KNUDSEN: As of pre-2005?

20 MR. KODAM: Correct.

21 THE WITNESS: Yeah, on the interpersonal
22 front, by that time I was aware that Oscar Lumen and
23 he didn't get along, and I remember specifically
24 Oscar -- you know, Oscar wasn't a manager at the
25 time.

1 I don't even know that he was a senior at
2 that time, but being very -- I talked to him about it
3 and just, you know -- something happened at an exam.
4 Don pissed Oscar off really, really badly. Oscar
5 felt very highly personally insulted.

6 I don't remember -- I don't even know if
7 Oscar told me the details because I think he wanted
8 to just sort of keep it to himself. He's very
9 professional that way, and so -- you know, but what
10 was -- what came out of it is he never wanted to work
11 with Don again.

12 BY MR. KODAM:

13 Q This is Oscar Lumen?

14 A Uh-huh.

15 MR. KNUDSEN: You have to answer
16 audibly. I know it's --

17 THE WITNESS: Oh, I'm sorry. Yes,
18 Oscar Lumen.

19 BY MR. KODAM:

20 Q Isn't Oscar Lumen his current supervisor?

21 A That's right. I think they've patched
22 things up. I'm talking about 2005. That was five
23 years ago, and this incident probably occurred in
24 2004 sometime, and then I'd heard of another incident
25 involving Don, the specifics of which I don't -- it

1 may have involved Jeanette.

2 I'm not 100% sure, but by 2005 I kind of
3 viewed Don as -- I, personally, got along very well
4 with Don, but it was kind of clear to me that some
5 people liked Don, and some people he just rubbed the
6 wrong way.

7 Q What did your discussions with Don Lake,
8 after you received the complaint, involve?

9 A You know, again, I -- my approach was,
10 basically, the same, you know, asking Don, you know,
11 how do you feel? How do you like the work? What's
12 going on here? How do you think we can resolve
13 this?

14 The thing I remember with Don was that
15 he, basically, was like, you know, this isn't really
16 about me, you know. I kind of feel like Julio's
17 abusive towards Ros and Pat, you know. I'm trying to
18 think of -- I don't remember Don saying that Julio is
19 abusive towards me. I just don't remember him saying
20 that to me -- at least, you know, at that time.

21 He was more concerned about the morale of
22 the group, the team, and I told Don this. I said,
23 Don, you know, you're a leader, too. You're
24 experienced where all these young folks are, you
25 know -- I want everyone to feel like these are issues

1 that we need to be concerned about, and it's true.

2 I mean, that's, you know -- and so Don, I
3 think, was saying, well, I thought this is what you,
4 you know -- this is what I do. I look out for the
5 interests of colleagues when I think they're not
6 happy or being abused or -- and once Don realized
7 that, you know, Ros and Pat were happy -- I'm sure,
8 by the way, they had conversations among the three of
9 them, what are we going to do, because the impression
10 I got was that Don sort of organized this.

11 And I kind of remember asking Don
12 actually why did you, you know, why did you sign
13 this? If you're here because of Pat and Ros, you
14 know, you know, they could have, you know, signed
15 complaints, and why are you part of this?

16 And, again, the impression was, you know,
17 this is kind of what I do, you know. I was looking
18 out for them. I like them. I'm being a leader, you
19 know, looking out for the team. So, I mean, that was
20 the impression I had of the conversations, and Pat
21 was resolved -- I forget what your original question
22 was.

23 MR. KNUDSEN: He was asking, I think,
24 just what you recall about your discussions. What
25 were your discussions with Mr. Lake after you

1 received the complaint.

2 THE WITNESS: Okay. Part of the
3 discussion was how do you want to resolve it? What
4 do you think we need to do to fix this? And he said,
5 well, if Pat and Ros are happy, I'm happy, and, you
6 know, it was like he was going to stay. Okay
7 everybody. We're all good, and that was it.

8 I mean, it was, you know, it was much ado
9 about nothing was kind of Don's attitude about this,
10 at least as expressed to me, you know. At the end of
11 the day, as long as Pat and Ros are happy, I'm happy,
12 too.

13 MR. KODAM: Why don't we take our lunch
14 break right now.

15 MR. KNUDSEN: Sure. When do you want to
16 reconvene?

17 MR. KODAM: 1:30?

18 MR. KNUDSEN: Sounds good.

19 (Lunch recess taken at 12:38 p.m.)
20
21
22

23 --o0o--
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25

1 AFTERNOON SESSION

2:00 P.M.

2 EXAMINATION (Resumed)

3 BY MR. KODAM:

4 Q Back on the record. Bob, I'm going to
5 hand you what we're going to mark as Exhibit 1.

6 MR. KODAM: Actually, are we doing joint
7 exhibits, or are we just going to -- or should I just
8 start with 1?

9 MR. KNUDSEN: I would just start it with
10 Exhibit 1. I've never actually seen a -- it's a
11 beautiful, elegant idea. I've never seen it work
12 successfully in any case I've ever been on.

13 MR. KODAM: It worked pretty well in that
14 one case in L.A. I did, but anyway we'll move on.

15 I'll hand you Exhibit 1 to the depo. My
16 staff found it. Take a look at that and let me know
17 when you've reviewed it.

18 (Exhibit 1 was marked for identification.)

19 MR. KNUDSEN: And we didn't talk about
20 this at the initial portion when Daniel was giving
21 you the admonitions, but please do take enough time
22 to make sure that you've read this and are familiar
23 with it.

24 (Witness reviewing document.)

25 THE WITNESS: Okay.

1 BY MR. KODAM:

2 Q Do you recognize this document?

3 A Yes.

4 Q Is this the complaint that we've been
5 discussing from those three individuals in the "From"
6 column?

7 A Yes. Is this my copy?

8 Q That will go -- you can keep that copy if
9 you want.

10 A I wasn't sure.

11 Q I can use mine to give to her.

12 A Okay.

13 Q I want to go through -- I know you
14 mentioned that you felt the general understanding of
15 the complaint was that Julio was mean.

16 Am I stating that properly?

17 A Obviously, I don't know verbatim, if I
18 was basing that on just my memory of reading this or
19 my memory of talking to people, specifically the
20 people who signed this, afterwards.

21 Q Well, I want to go through this
22 correspondence and kind of go through the numbered
23 items 1 through 10.

24 A Uh-huh.

25 Q Number 1, do you see that 1 that starts

1 "Micromanagement of all processes"?

2 A Uh-huh.

3 Q Is that a yes?

4 A Yes.

5 Q Did you talk with any of the three people
6 about the specifics of what that entailed?

7 A On Number 1, I don't recall specifically.

8 Q Okay.

9 A Just to be clear, you're talking about
10 whether, in my conversations with Don or Patrick or
11 Ros, do I remember discussing Number 1?

12 Specifically, I don't recall that.

13 Q We talked about Don earlier and we talked
14 about Ros, and we didn't talk about what Patrick Lum
15 told you in your discussions with him when you spoke
16 to him after receiving Exhibit 1.

17 A Okay.

18 Q What do you recall him saying?

19 A He was worried or, I should say, I think
20 also felt like he was being unfairly criticized in
21 his work, that he didn't know, you know, what was
22 expected. Every time I do something, you know, it
23 seems like it's not up to snuff in some way.

24 And I think he felt frustrated, that he
25 didn't think -- he thought it was unfair, I guess,

1 but also what I recall is him feeling that, you know,
2 there's no way I can fix this. No matter what I do,
3 you know, it seems like I'm not going to satisfy
4 him.

5 Again, I'm paraphrasing. This is the
6 impression I had after a very long -- these are very
7 long conversations I had with these folks and perhaps
8 multiple conversations, now that I think about it.

9 So that was my impression with him, and I
10 remember, again, you know, part of my conversation
11 was how do you want to resolve this, and I think I
12 already covered how we resolved it with him, you
13 know. He'd go back to the local agency security
14 program full time and keep his promotion, keep his
15 job level, and, you know, and that was satisfactory
16 to him.

17 Q Now, going back to Exhibit 1, in your
18 discussions with the three -- I'm trying to think of
19 a shorthand way of saying it. I'll just say the
20 three individuals who wrote this memo, Number 2, in
21 your discussions with them did you get any more
22 specifics on that?

23 A I don't recall. I need to sort of,
24 again, preface this. When I talked with the people,
25 I didn't take this complaint and go one by one.

1 Let's talk about Number 2. Let's talk about
2 Number 3.

3 I think I've expressed my approach to
4 these meetings and -- but in the course of those
5 conversations, yeah, I do remember that coming up,
6 what's discussed in Number 2 here, complained about
7 in Number 2, the feeling there were too many emails,
8 too many phone calls. That did come up.

9 Q Okay. And what was said, and were there
10 any specific examples given to you?

11 A Nothing specific that I recall, and what
12 was said -- I mean, nothing -- the context of all of
13 this was, you know, he's too critical, and actually
14 let me back up. Also, it was directed -- I remember
15 it actually being directed towards Tom Fong as well.

16 Q That Tom Fong was too critical?

17 A Yeah. Now that I'm testifying about
18 this, you know, one thing that did come up, and I
19 think it was from Pat Lum, was Tom Fong would, for
20 example, would write -- so there would be a work
21 product, whether it was a draft of an exam report or
22 a memo, you know.

23 Generally speaking, if we give an
24 assignment, you know, we want some written work
25 product on how was it resolved, whether it's in a

1 memo form or what have you, but a memo wouldn't be
2 unusual, and Tom was the kind that -- his style was
3 to write comments, suggestions.

4 So I remember specifically Pat Lum using
5 that example. Something to the effect of I wrote a
6 two-page memo, and it came back five pages long
7 because there were so many extra comments -- because
8 Tom would do this on a computer, add in different
9 fonts. Add this. What about this? What do you
10 think -- and so that was sort of the context of that
11 complaint like, you know, they micromanage so much
12 that they write more than I do when I, you know,
13 write a report up, but, yeah, the general gist of it
14 was too much feedback of the negative sort.

15 Q Did you speak with Tom or Julio about
16 that?

17 A About that specific incident?

18 Q That issue. I mean, it's more than one
19 time, I presume, right?

20 A No, it's not one time. I remember
21 talking to Julio Prada once and telling him -- and I
22 don't know why I wouldn't have had this conversation
23 directly with Tom, to tell you the truth.

24 It must have been because he was out or
25 something and just telling him to tell Tom, rather

1 than communicate -- because I discovered that that
2 just was his preferred way of communicating. Even if
3 somebody was right next to him, rather than say, hey,
4 this is what I'd like to do he'd write a long email
5 or something like that.

6 I remember telling Julio tell Tom just to
7 talk to people because I think folks, you know --
8 that's just my management style, and I just think
9 it's better often, particularly when it can be
10 perceived as critical, to just talk to people rather
11 than to put it in writing because there's something,
12 you know -- it's like emails, you know.

13 A conversation -- I think it's more
14 effective to communicate verbally with someone often,
15 particularly when it's in the form of like
16 constructive criticism.

17 Q Did you see these comments going to the
18 examiners?

19 A No.

20 Q Did you ever review any of the work
21 Julio Prada did or Tom Fong did back in 2005?

22 A Well, the answer to that is, yes, I
23 would, depending on what the project was. I would
24 review the finished product.

25 Q You kind of answered this generally, but

1 I'm going to ask it specifically. With regards to
2 Number 1 in this memorandum of Exhibit 1, prior to
3 this memo had you ever received any complaints
4 regarding that?

5 A Well, I think the answer is yes.

6 Q Okay.

7 A So, for example, what I talked about with
8 Tom Fong, I'd heard that, you know -- the timing
9 might be off, but I -- I'd heard that that was the
10 way that he did his work, and what I didn't know was
11 that people were like offended by it, that it
12 really bothered them. I didn't know that.

13 MR. KNUDSEN: Sorry.

14 MR. KODAM: Do you want to go off the
15 record?

16 MR. KNUDSEN: Sure. Sorry about this.

17 MR. KODAM: No problem.

18 (Recess.)

19 MR. KODAM: Can you repeat the last
20 question?

21 (Record read.)

22 BY MR. KODAM:

23 Q Did you ask any of them why Tom Fong
24 wasn't mentioned in this memorandum at all?

25 A No, and I just want to clarify something

1 because hearing that reread -- you asked whether it
2 was in relation to Number 1 --

3 Q Uh-huh.

4 A -- and my thinking, when I responded, was
5 it was actually in relation to Number 2. Well, I
6 guess Number 2 is constant and excessive emails.
7 Maybe it was more related to Number 1. I don't
8 know.

9 But the point is I'd heard about Tom Fong
10 and his style of doing -- of managing, his work
11 style, in advance of this. Again, what I wasn't
12 aware of was that anyone in any way, shape or form
13 would be offended by it.

14 In fact, it was quite the opposite. I
15 thought would be a good, you know, kind of road map.
16 Ah, here. He's really -- now I know what I need to
17 do. It's here in writing, and I think some people
18 actually responded very positively to that.

19 Q So Tom Fong would delineate very
20 specifically what needed to be done, and so people
21 were understanding what they were doing, but other
22 people took it as this guy is not giving us free
23 reign to do it the way we think best.

24 Am I paraphrasing this correctly?

25 A You're probably paraphrasing it

1 correctly. I think with Pat Lum it was -- what I
2 recall was him using that as an example of no matter
3 what I do it's not right, and, again, the example
4 that sticks in my mind is here I grab a one-page
5 assignment and write it up, and Tom is so critical of
6 me that his criticisms, in his view -- I don't
7 think -- I don't ever remember seeing this document
8 by the way, just so you know, but he -- but what I
9 think is that Tom wrote how about this, how about
10 that. Why don't you -- please follow up on this, and
11 the point of the story that I recall was see what I
12 mean? It's over the top. It's too much. Just a
13 simple assignment that should have been done, and he
14 ends up writing more about it than I do.

15 Q Now, was anything related to Julio Prada
16 complained of, prior to this memo, as relates to
17 Number 1 in the exhibit?

18 A Number 1? Well, I would never agree with
19 micromanagement, you know, but that's their word, and
20 so with respect to Julio, Number 1, you know -- lost
21 time? There's nothing here that -- disruption of the
22 exam process? There's nothing here that even
23 remotely would cross my mind that this is an issue
24 with respect to Julio and how he relates to his
25 staff. Number 2 --

1 Q Okay.

2 A Okay. Fair enough. Sorry.

3 Q Let me keep you in this box right now
4 because we'll confuse things tremendously.

5 A Fair enough.

6 Q Let me ask my question a different way.
7 You kind of answered it, but I want to be clear for
8 the record.

9 A Okay.

10 Q I understand that you said that
11 Julio Prada -- there's nothing in here that you would
12 think of in Number 1.

13 My question, though, specifically was:
14 Prior to this memorandum, had you received any other
15 complaints or heard anything that related to
16 Julio Prada doing what's listed in Number 1 and
17 people having an issue with it?

18 A No.

19 Q Okay. Now, we go to Number 2, and prior
20 to this memorandum had you heard of any of the issues
21 raised in Number 2?

22 A The answer is yes. So, yes.

23 Q Okay. As it related to whom?

24 Julio, Tom Fong or someone else?

25 A It's -- probably as it related to Julio,

1 and I need to refer to what this is saying. I want
2 to say, first of all, constant and excessive -- I
3 would never agree with that. I'd never heard anyone
4 say Julio constantly and excessively communicates
5 with me, whether good, bad or indifferent.

6 What I had heard were some complaints
7 about Julio feeling surprised by unexpected issues
8 that would arise in the course of an exam and that
9 required Julio -- and not just Julio. Perhaps Tom
10 and perhaps Robert and even, on occasion, me -- to
11 get involved while folks were in the field.

12 And, you know, there was just some issue
13 that was sort of exploding and people needed
14 direction on, and I think from Don more than anyone
15 else really I recall hearing, you know -- Don's very
16 big on this culture. When I'm in the field I make
17 the calls. I make the decision, that kind of thing,
18 and I think from Don's point of view that was a
19 problem -- and this is before this memo, if I
20 understand you?

21 Q Correct.

22 A And that's the only context I really
23 recall about that coming up.

24 Q So you had heard previously from Don
25 concerns about how much the emails and voicemails and

1 phone calls were while he was in the field?

2 A Yeah, I think that's definitely -- in the
3 way I just expressed it, that would be the context
4 that, you know, why is -- you know, why am I being
5 micromanaged? It's my call, and from my point of
6 view -- because, I mean, honestly probably one or two
7 times it was me saying wait a second. What's --
8 because in terms of the work process, just so you
9 know, before you go in the field you need to do your
10 homework. You need to read the files. You need to
11 talk with -- even with me or Julio, or whoever, just
12 to say what are the issues with this company?

13 And you do that review, and there's a
14 scope of the exam. It says these are the issues I
15 anticipate. Here's how I'm going to focus my exam,
16 on these issues and so on, and oftentimes there would
17 be surprises, things that just came up out of the
18 blue, and sometimes that's because someone didn't do
19 their homework in advance or sometimes that's just
20 life. Life's complicated. You can't always predict
21 what's going to happen.

22 In fact, that's why we go out into the
23 field, and I -- and, again, that would be the context
24 where I remember hearing about maybe what Don would
25 describe as excessive or interfering, but I would

1 think of it as just normally part of the process,
2 and, again, this is before -- this wasn't in the
3 context of it's too much. He's abusive -- any of the
4 context of what's in this memo.

5 This is all new to me, the words like
6 "excessive" and "constant," and, you know,
7 everything else that's --

8 Q So how was it presented to you?

9 A Oh, boy. I'm trying -- I can't think of
10 specifically what an instance might be other than to
11 say I'd heard -- I just heard, you know -- we were a
12 pretty small group back then, and I talked to Don and
13 I talked to all of my folks.

14 There wasn't any sort of hierarchical,
15 you know, you must knock on my door if you want to
16 speak with me, and routinely I would go, when folks
17 were in the office, and talk to them in their
18 cubicles or walk into Julio's office and bring people
19 in and talk.

20 I can't pinpoint any place, any
21 particular conversation, but I do -- I mean, if you
22 asked me, you know, about this subject matter, what I
23 relate that to prior to this particular memo -- I
24 relate it to, you know, again, that context where,
25 you know, why is it that Julio's coming in and

1 telling me what to do in the 11th hour type of
2 thing. Why is he so stressed out? So --

3 Q Let's go to 3. Actually, have we covered
4 everything in the past on Number 2?

5 A I think we have.

6 Q Let's go to Number 3.

7 A Can I explain something with Number 2?
8 "Preceding the exit review with management," that's a
9 very specific thing, you know. We have -- and that's
10 not really -- when we go to do an exam, at the end
11 there is an exit, a meeting I guess you'd call it.

12 I refer to it as an exit meeting where
13 you sit down with management of the institution and
14 with the examiners there and go over your findings.
15 You may give them preliminary ratings on components,
16 that sort of thing.

17 So I just want to clarify, you know, what
18 that means because Number 2 is specifically relating
19 to work while you're in the field, you know. I think
20 Number 1 kind of is, too, now that I'm looking at it.

21 Q Was that it?

22 A Yes. That was it, yes.

23 Q Let me ask something you brought up --
24 well, you didn't bring it up, but it triggered a
25 question that I meant to ask.

1 Where it says "then months later
2 concerning the very same subject," did you get
3 examples of that?

4 A Did I have examples of --

5 Q Did you get examples when you spoke with
6 individuals?

7 A You mean, when I -- in the context of
8 having received this and then sort of talking to
9 folks about what's going on here?

10 Q Yes.

11 A No. No. Nowhere in -- in my discussions
12 with folks, I don't recall ever saying here. Show me
13 what you're talking about. That just wasn't the
14 approach. I wasn't -- it wasn't an adversarial sort
15 of situation, as far as I was concerned, in terms of
16 show me what you have.

17 MR. KNUDSEN: Bob, I think he might be
18 reading it from the other side. Did they ever come
19 and give you examples -- regardless of how you
20 approached this.

21 THE WITNESS: No, they didn't. I didn't
22 ask them, and they didn't give me anything to back
23 any of this up.

24 BY MR. KODAM:

25 Q Had you heard of any issues where the

1 same subject matter keeps repeating months later?

2 A No. I think I know what they're
3 referring to, but I don't particularly remember ever
4 hearing about that.

5 Q You think you know based on
6 conversations, or are you just speculating?

7 A It's hard for me to say. I suspect based
8 on conversations.

9 Q Okay. What is it that you know?

10 A And this is in terms of process more than
11 any specifics of like an instance where someone was
12 complaining, but normally there will be an exam
13 report written, and I think I discussed this. It
14 will go up through the FIS and maybe the FIM, and
15 what they'll do is they will have comments, and the
16 problem becomes the person, the EIC, may be out in
17 the field again or doing another exam.

18 So things may not get resolved until
19 later dates, and particularly for a problem licensee
20 where there are -- an exam report for a problem
21 licensee would often be longer, more detailed, often
22 require more follow up. So in terms of the process,
23 I'm sure that is what this is referring to.

24 Q Let's to go Number 3.

25 A Excuse me.

1 Q Are you okay, or do you need to take that
2 call?

3 A No. I'm waiting for the call to end so I
4 can put it on vibrate.

5 Q Okay.

6 A And I'm sorry. Can you repeat the
7 question?

8 Q Had you received any complaints about the
9 issues raised in Number 3 of the exhibit prior to
10 receiving this correspondence?

11 A No, and let me back up. I think I'd
12 heard about the performance level of Ros and Pat Lum
13 not being up to snuff. Now, I wouldn't characterize
14 it as constant dissatisfaction, but I guess -- I
15 think we're talking about the same thing.

16 I'd heard that these guys weren't really
17 performing at the competency level we had hoped, and
18 then also the other issues with respect to Don -- I'd
19 heard about those issues. I don't know that that
20 relates to -- I mean, from my point of view, I think
21 I expressed what I heard.

22 From his point of view, he probably felt
23 that was an expression of constant dissatisfaction.
24 It's the same subject matter. I just wouldn't
25 characterize it the way it's characterized here in

1 Number 3.

2 Q I'm just going off on a tangent for a
3 brief second. The concerns raised about Don, were
4 those concerns -- how do I put this. Were those
5 concerns something you were aware of prior to him
6 coming to Money Transmitters?

7 A Not specifically, no, but generally
8 Don -- I knew Don had a reputation in Sacramento, and
9 I knew he had his reasons for wanting to transfer to
10 Money Transmitters, and he expressed those reasons to
11 me, but I had heard it independently confirmed from
12 others.

13 Q What was the reputation you heard about
14 Don in Sacramento?

15 A That he didn't get along with some of his
16 key management and colleagues, I guess, and that's
17 what he expressed to me. He basically told me that,
18 too, and also that he felt that, you know, he'd have
19 better opportunity in terms -- "opportunity" is not
20 the right word.

21 He wanted a fresh start, I think would be
22 the best way to sort of put it, you know, a fresh
23 start with Money Transmitters. So that's why he was
24 willing to try it out.

25 Q Did you find out anything specific as it

1 related to his issues with key management and
2 colleagues, or was it just a general discussion?

3 A It was really more general. There wasn't
4 anything specific that I could -- at least not that I
5 recall. I mean, there's only one thing specific, and
6 frankly it comes from Don.

7 There was a fellow there in Sacramento by
8 the name of Scott Harris, who is now retired but at
9 the time, you know -- when was this -- 2003, 2004.
10 He was probably an SFIE but I think being groomed to,
11 you know, become management there. I know eventually
12 he became a FIS and a FIM. I'm just not sure of the
13 time involved in this.

14 I think Don realized that's what was
15 going to happen, but anyway Don did not get along --
16 I mean, he was openly hostile to me about what his
17 feelings were about this person. I mean he expressed
18 open hostility toward him -- not hostile toward me.
19 He was candid with me about his feelings towards him.

20 Q Was it work related or something
21 different?

22 A I think it was work related. I never --
23 I mean, honestly, I didn't, you know, I didn't ask.
24 He just -- it's, you know -- it's just -- Don didn't
25 like Scott, and he wasn't -- I mean, I don't know if

1 he expressed it to other people, but he had no
2 problem letting me know that he couldn't stand
3 Scott Harris.

4 Q Did you speak with anyone, other than
5 Don, about Don and his work product prior to him
6 coming to Money Transmitters?

7 A No. I think, from my point of view, I
8 was approached by Carol Chesbrough, a person I've
9 worked very closely with and personally admire, and
10 basically Carol vouched for Don and that was good
11 enough for me, and I needed the help. The choice was
12 have Don or have nothing.

13 So I was happy to have Don and then my
14 own interactions, you know, with people -- if there
15 are rumors about people, whatever, I'd prefer to meet
16 him and make my own judgment, and I think I've said
17 it already, but I have no problem saying it again.
18 I got along terrifically well with Don.

19 So I made my own judgment after having
20 met him and having Carol, basically, vouch for him
21 but also sort of confirm, you know, that things were
22 not going to go well for Don here in Sacramento, and
23 I said great, you know, let's start working together.

24 Q Let's go back to Exhibit 1. Prior to
25 receiving this memorandum, had you heard of any

1 complaints similar to the one listed in Number 4
2 here?

3 MR. KNUDSEN: From licensees or from the
4 three individuals who wrote the memo?

5 MR. KODAM: Anyone.

6 THE WITNESS: Okay. Number 4 I never
7 heard from anyone.

8 BY MR. KODAM:

9 Q Okay. Same question as it relates to
10 Number 5.

11 A Well, the only part of that that I'd
12 heard before was the work products that are highly
13 criticized -- well, I'm trying to think if I really
14 heard that before this or afterwards.

15 Actually, now that I think about it, I'm
16 not too sure if I really heard that before this, but
17 the first part of that, exam schedules, that's
18 certainly -- I mean, that's the -- and I don't think
19 I've heard any of this now from any source prior to
20 this, you know, seeing this memo.

21 Q I'll come back to that. How about
22 Number 6? Same question.

23 A Yes, I've heard that as a complaint --

24 Q From whom?

25 A -- prior to this memo.

1 Q From whom?

2 A From, you know, from Don, and I don't
3 know that Don ever spoke to me -- well, I guess he
4 probably did, but I also heard it from Robert Mbama
5 specifically. I remember him and I having a
6 discussion about it -- and probably from Julio, too.

7 Q Can you explain to me where there's a
8 loss of the 9/8/80 work week -- what the exact issue
9 is, as you understood it?

10 A Yeah. 9/8/80 is an alternate work
11 schedule, and what it means is you work nine days and
12 get the tenth day off, and you have to work -- I hope
13 I've got my math right here, like nine -- no. Eight,
14 nine-hour days and then one eight-hour day.

15 And so we, and I was involved in these
16 discussions, made the decision to suspend that
17 alternate work schedule when you were in the field.
18 When you're in the office, you could go back to it.

19 Q You made that decision, you said?

20 A Yeah, I was -- yeah, I think I can say
21 that I made that decision. It's even one worth
22 talking about today -- I mean, in consultation with
23 my managers to make sure that we were getting our
24 objectives met in terms of work and work product, and
25 I would never make that decision sort of on my own,

1 but the general consensus was that when folks were in
2 the field it was too difficult to do this alternate
3 work week arrangement.

4 Q What about prior complaints of the type
5 listed in Number 7 of this exhibit?

6 Have you heard anything?

7 A I had never heard of that before this,
8 this memo.

9 Q How about Number 8?

10 A Yeah, that was -- I'd never heard of
11 Number 8 either.

12 Q And what about Number 9?

13 A Oh, no, I'd never heard of Number 9, no.

14 Q Did you discuss that in more detail?

15 MR. KNUDSEN: You mean, at these meetings
16 with Lum, Mr. Lake and Rosalyn?

17 MR. KODAM: Let me withdraw the
18 question. It was a very poorly-worded question.

19 BY MR. KODAM:

20 Q In your discussions with these three
21 individuals who wrote this memorandum, did you
22 discuss any specifics as it related to Number 9?

23 A I don't think we did. I don't remember
24 anything related to discrimination or harassment
25 coming up in our conversations.

1 Q When you had the discussions with -- I
2 think you said John Connell, if I remember here --

3 A Uh-huh.

4 Q -- did any discussion come up on this
5 allegation and how to address it?

6 A Probably. I think that -- I mean, that
7 was when -- that was the whole idea of whether HR
8 would need to do their own sort of investigation, and
9 I would be the person tasked within the department to
10 do any sort of true -- whatever this is -- what is
11 the word here? Discrimination, you know. It says
12 race, gender -- I mean, I'm a lawyer.

13 I understand what they're getting at
14 here, and this was the gist of where, you know, where
15 John was telling me, well, I don't know if we really
16 need to do this investigation, you know. It depends
17 on what these folks want and how it's resolved and so
18 on.

19 Q Were there any concerns about making sure
20 to follow EEO procedures since these are of the type
21 that may be classified as EEO complaints?

22 A If you're asking me, personally, I
23 didn't, personally, feel -- I felt like my job was to
24 give this to HR and meet with them and say hey look.
25 Here's what I know.

1 I wasn't involved in any decision about
2 whether or not HR should pursue some sort of formal
3 investigation or not, and I'm not -- I don't even
4 know what that would be, to tell you the truth.

5 That's just not my bailiwick.

6 Q From 2000, when you started working for
7 DFI, until May 2005 when you got this memorandum,
8 what sort of training, if any, did you receive as to
9 how to handle EEO matters?

10 A I don't remember specific training, but I
11 can tell you that we have -- goodness -- I don't know
12 what the frequency is, whether it's once a year or
13 once every two years.

14 I've been sent emails by HR saying you
15 have to, you know, take this test and pass it, and
16 you go to a link online, and you sit through this
17 interactive sort of presentation of what
18 discrimination is, what harassment is, what are the
19 things to look for, and then you answer a series of
20 questions.

21 So I know I've done that -- I mean,
22 whatever the requirements are, you know. I take my
23 lead from HR. I go and -- to these websites and
24 answer the questions and pass and then, you know,
25 don't really think about it much, but my take-away is

1 that when something like this happens contact HR
2 because they're the experts, and in our division, in
3 our department I should say, you know, that's the --
4 they're tasked with resolving this.

5 How they do it I don't know. I'm not
6 that familiar with the actual processes involved with
7 any sort of these complaints.

8 Q Besides those online links, was there any
9 other training EEO related?

10 A You know, there may have been but not
11 that I recall specifically.

12 MR. KODAM: I apologize. I need to take
13 this. Can we go off the record?

14 (Recess.)

15 BY MR. KODAM:

16 Q Going back to Exhibit 1 -- actually, can
17 you repeat the last question and answer just so I
18 make sure we finished it.

19 (Record read.)

20 BY MR. KODAM:

21 Q Before I go back to Exhibit 1, there's a
22 couple of follow-ups on the EEO training that I want
23 to add.

24 Was there a video you would watch online,
25 or was it just a question and answer? I'm trying to

1 get a feel for how these EEO trainings work.

2 MR. KNUDSEN: Let me just object. Vague
3 and ambiguous. From my experience, it could be
4 something that is neither one of those two.

5 BY MR. KODAM:

6 Q Okay. Strike that. Let me rephrase the
7 question. Can you describe in a little more detail
8 what would show online?

9 A I'm trying to think if it's changed over
10 the years. I think I've done this at least three
11 times, my best estimate, probably more.

12 You get an email that says you're due for
13 this certification or training, and it's not just
14 this. There's other things that I do that are
15 somewhat related or I mean that are handled in a
16 similar manner, and you, you know, you go to a
17 website -- I think it's a combination of both. I'm
18 trying to remember the specific -- like from the
19 last -- I assume this is the last time I did it.

20 You go to a website and push a button
21 and, you know, a little video will play, you know,
22 and these guys would act out a scene and there would
23 be some person talking about it, and you'd read,
24 also, you know. The content would be delivered
25 through written words as well as video, I guess, and

1 then there's a series of questions, you know, and you
2 answer them and get graded.

3 I presume that there's a minimum passing
4 grade. I don't know. It's never -- it's never been
5 an issue for me. I do it and I pass, and I don't
6 really think about it much afterwards, tell you the
7 truth.

8 Q How often would this happen?

9 A I think once every couple years, you
10 know.

11 Q All right. Now going back to Exhibit 1,
12 prior to receiving this memorandum had you received
13 any complaints of the nature listed in Number 10 that
14 you were aware of?

15 A No.

16 THE REPORTER: Excuse me, Counsel. Can
17 you give me a moment, please?

18 MR. KODAM: Sure.

19 (Brief recess.)

20 BY MR. KODAM:

21 Q Did you, when you received this
22 memorandum, go one by one over these individual
23 things with Julio at all?

24 A No.

25 Q Do you have the capability to view

1 Julio's emails?

2 A No.

3 Q Do you know if anyone does within the
4 department?

5 A I mean -- I don't know is the answer. I
6 hope not.

7 Q Well --

8 A It would be a huge violation of trust. I
9 think the organization -- I don't think anyone would
10 allow that. Let me put it that way.

11 Q -- in a lot of governmental agencies they
12 do have the capability. So that's why I asked the
13 question of you.

14 A So the technical capability?

15 Q It's not that hard.

16 A And I don't know. I don't know. We
17 might, but I don't know if we do.

18 Q My firm has like five people. I can look
19 at their emails if I wanted to.

20 A Oh, is that right?

21 Q Yes, it's not a complicated thing. So
22 that's why I ask.

23 Excuse me while I sort papers here. This
24 is going to be Exhibit 2 as soon as I sort through
25 these.

1 (Exhibit 2 was marked for identification.)

2 MR. KODAM: I've handed -- and, Bob, so
3 you know, that one you have -- we'll make it the copy
4 for the court reporter. I used mine on 1, but that's
5 the original of that one. I didn't make another
6 copy.

7 THE WITNESS: All right.

8 MR. KODAM: We've marked this eight-page
9 document that lists on the top "Policy Number 1395."
10 I've handed it to the deponent. If he could take a
11 few minutes to review it and make sure he understands
12 it, then I'll ask some questions regarding it.

13 MR. KNUDSEN: And the same instruction to
14 Mr. Venchiarutti. Please, you know, review it enough
15 so that -- I'm sure Mr. Kodam is going to ask you a
16 few questions about it -- so that you can
17 intelligently answer those questions.

18 (Witness reviewing document.)

19 THE WITNESS: Okay.

20 BY MR. KODAM:

21 Q Are you ready?

22 A Yes.

23 Q Okay. Do you recognize this document?

24 A Yes.

25 Q And where do you recognize it from?

1 A Where do I recognize it from?

2 Q When did you first see this document?

3 A I'm assuming it was contemporaneous with
4 the date on the document. I don't have any
5 independent recollection of when this came across my
6 desk or that sort of thing.

7 Q Okay. Was this policy in effect prior to
8 the date on here, or was there a previous policy?

9 Do you recall?

10 A I don't recall.

11 Q Did you get any training on this policy,
12 or was it just handed to you to read and you signed?

13 MR. KNUDSEN: One second. I'm just going
14 to object to this line of questioning on the basis
15 that, in this case, it's outside the scope of
16 discovery and not likely to lead to the discovery of
17 admissible evidence.

18 There's no claim in this case that there
19 was any violation on the part of any person of the
20 workplace violence policy.

21 You may answer.

22 THE WITNESS: I don't recall.

23 BY MR. KODAM:

24 Q Do you recall if you distributed this
25 document to any of your subordinate staff, or was it

1 given out by someone else?

2 A I do recall, yes.

3 Q You recall that you did, or you're --

4 A No. How it would have been done is it
5 would have been distributed by HR, and I don't
6 remember specifically, though, about this particular
7 policy, but I can tell you how these things normally
8 are distributed.

9 Q Okay. And how is that?

10 A Well, I think particularly -- this was
11 under Michael Kelley. This would have been, I'm
12 pretty sure, distributed by email with a link to
13 where you could find this document, or maybe it would
14 have been attached, and probably both, with
15 directions to make sure you sign the acknowledgement,
16 whatever it was, that you've read it and you
17 acknowledge receiving it and hereby agree.

18 I don't know what the verbiage might have
19 been but some document acknowledging receipt and that
20 you've read it and returning that to HR.

21 Q Turn to -- it says Page 4 of 8 or DFI 195
22 on the bottom right.

23 A Say it again? On the bottom right?

24 Q On the bottom right it says Page 4 of 8
25 or DFI 0000195.

1 A Oh, yes. Uh-huh.

2 Q Okay. Can you read that first paragraph
3 right after 5.0, "Role and Responsibilities"?
4 Actually, yeah, read that because I have a question
5 on that.

6 A Read it out loud?

7 MR. KNUDSEN: Just to yourself.

8 MR. KODAM: Just to yourself. I've read
9 it. I don't need it read out loud to me.

10 (Witness reviewing document.)

11 THE WITNESS: Okay.

12 BY MR. KODAM:

13 Q In your time as the Deputy
14 Commissioner -- so 2003 till, let's say -- let's just
15 do the present for now -- have you had any complaints
16 related to anyone not following this portion of this
17 policy?

18 MR. KNUDSEN: Objection, and it's the
19 same one. Objection. Outside the scope of
20 discovery. Not reasonably likely to lead to the
21 discovery of admissible evidence.

22 THE WITNESS: I want to say no, but I
23 don't know that I understood your question. So I'm
24 sorry. Maybe could you repeat the question?

25 / / / /

1 BY MR. KODAM:

2 Q Sure. Since you've been the Deputy
3 Commissioner of Money Transmitters -- and I
4 understand, Counsel, you're going to have the same
5 objection. So we'll just include that for brevity
6 purposes.

7 Have you had anyone raise a complaint as
8 it related to what's described in 5.0?

9 A Yeah, the whole -- I mean, the
10 John Rockwell situation was all related to workplace
11 violence. So I would categorize that as a complaint
12 about workplace violence.

13 Q Anyone else?

14 A I don't think so unless someone -- maybe
15 you could construe this Exhibit 1 memo as a complaint
16 of workplace violence. I don't -- you know, just
17 reading this, "professionally, respectfully,

18 "courteously." So I guess technically that falls
19 within the ambit of what they're talking about there,
20 but I think it's just a matter of opinion, I guess.

21 So in answer to your question, probably
22 this memorandum of 2005 would fall within that -- the
23 ambit of that paragraph.

24 Q What was your understanding of how to
25 handle complaints of workplace violence under this

1 policy as a manager?

2 A My understanding is you contact HR and
3 bring it to their attention.

4 Q Same page on the bottom. See the last
5 paragraph where it says "Managers and Supervisors"?

6 A Uh-huh.

7 Q Can you read that to yourself, and then I
8 have a question.

9 (Witness reviewing document.)

10 THE WITNESS: Okay.

11 BY MR. KODAM:

12 Q Was that form, DFI 135D, ever filled out?

13 A When?

14 Q Sorry. As it related to the May 2005 --

15 A No, at least not by me.

16 Q Do you know why?

17 MR. KNUDSEN: Well --

18 MR. KODAM: Same objections?

19 MR. KNUDSEN: No. No. No. Well, same
20 objections but another one, which is, based on the
21 witness's testimony, this form wasn't in existence in
22 2005.

23 BY MR. KODAM:

24 Q Was there a form for reporting incidents
25 of workplace violence in 2005?

1 A I have no idea. I certainly have never
2 seen that form before. So whether it was in
3 existence or not, I have no clue.

4 Q Until what you read right now, were you
5 aware there was a form for workplace violence
6 incidents?

7 A If I had not seen this document and you
8 asked me I would -- no. It doesn't come up that
9 often, thankfully. So reading it, obviously, I'm
10 aware of it, but I think, as I said, I know enough to
11 know.

12 And that's part of the training, too, is
13 when there's any issue at all related to workplace
14 violence, the very first thing I do is get on the
15 phone to the Chief Administrative Officer and,
16 basically, look to them for guidance on what to do.

17 Q Okay. We're going to switch gears now,
18 and let's talk about some stuff that you may or may
19 not recall.

20 You're familiar with what CTO is, right?

21 A Yes.

22 Q Are you familiar with an issue regarding
23 Mr. Lake's CTO as it related to a Canada trip?

24 A I am but -- I am now, if that has any
25 meaning to you. I don't remember if at the time it

1 was supposed to have happened -- it's only well after
2 the fact that it was brought to my attention.

3 Q Okay. What is your understanding?

4 MR. KNUDSEN: I'd just caution the
5 witness, based on your last statement, if the only
6 thing you know is through discussions with counsel
7 because of this case, that's something that's
8 attorney-client privilege.

9 If you know it through, say, for
10 example, just being with administrators at DFI or any
11 other way, speaking with Mr. Prada, speaking with
12 Mr. Lake, that's, of course, fair game.

13 THE WITNESS: So it's very difficult for
14 me to parse this answer out, given what you just, you
15 know -- your objection or admonition.

16 I was aware and, you know -- over time
17 that Don Lake had a reputation for, you know, taking
18 shortcuts, cutting corners. He knew all of the
19 angles, is the way I would characterize it, and one
20 of the frustrating ways this would manifest itself is
21 with his travel claims and claims for CTO and
22 overtime and so on.

23 And so I was aware, generally, of
24 frustrations that managers had with him, going back
25 to Robert Mbama, you know, Jeanette Barazza,

1 Oscar Lumen and Julio Prada, and even I had heard
2 from colleagues of his through, you know -- this is
3 just -- Don was the guy who knew how to get CTO.

4 And I remember one example, and this is
5 something that was told to me, about an exam -- and I
6 have no idea if this is Canada or not -- where, you
7 know, he went out of his way to schedule a flight
8 that had connections when colleagues took direct
9 flights, and he had to stay overnight, you know,
10 somewhere in the middle of America, like Minneapolis
11 or Chicago, in Windsor, and because of that he was
12 able to, you know, was able to -- he asked for CTO
13 and got CTO, and the frustration was -- the question
14 was why didn't you just go back on a direct flight?

15 So that's an anecdote related to CTO and
16 travel that I specifically remember being voiced to
17 me as a frustration, and I think that was by
18 Robert Mbama. So that's -- you know, your question
19 was Don Lake related to CTO, and that's my initial
20 response. I don't remember specifics beyond that,
21 other than what I just testified, I guess.

22 BY MR. KODAM:

23 Q We're going to break that down a little.

24 You mentioned Robert Mbama, Jeanette
25 Barraza. To the best of your recollection, can you

1 tell me every person who has talked with you or given
2 you information as it relates to Don Lake and CTO?

3 MR. KNUDSEN: I just want to interpose a
4 quick objection. Objection. Outside the scope of
5 discovery and isn't likely to lead to the discovery
6 of admissible evidence, especially with the really
7 early stuff.

8 You may answer.

9 THE WITNESS: And I think those would
10 probably be the two people I spoke to most about it.
11 So they would certainly be the most informed, just
12 because of their job duties as FIS at the time over
13 the crew, because even though Don didn't directly
14 report to them the FIS was pretty much the person who
15 helped manage the exam process in terms of logistics
16 like traveling and so on.

17 BY MR. KODAM:

18 Q How many conversations did you have with
19 Robert Mbama -- I'm never going to get that name
20 right -- Robert Mbama regarding Don Lake and his
21 handling of CTO?

22 A Boy, that's really hard to say. I
23 mean --

24 Q Can you give me a range?

25 A Yeah. I mean, several at least, but, you

1 know, I would be comfortable with saying definitely
2 more than three, four, but, you know, not more than
3 that, I don't think.

4 I generally am not involved in travel,
5 CTO. I mean, that's just -- again, that's just
6 something I don't get involved with unless there's a
7 request for guidance on what the rules are and for
8 some reason it can't be straightened out and/or there
9 might be conflicting information.

10 So there have been a couple of times
11 where I've talked to HR and said hey look, guys.
12 What are the rules regarding -- when does the clock
13 start, and when does it stop? We've heard
14 conflicting things to where we're confused. Tell
15 me. That's probably happened about three times or
16 four times since I've been in my position.

17 Q What is your understanding of when the
18 clock starts for CTO in travel?

19 A You're talking to the wrong person. You
20 really are, and part of the reason is because I'm not
21 involved in it. I really am not. I've got enough on
22 my plate, and there are people who are tasked with
23 knowing these things, and they have a number of
24 people they can talk to to get guidance when there
25 are questions about this. So, you know, I don't need

1 to be involved.

2 Q Now, you mentioned three or four
3 conversations with Robert Mbama.

4 How about with Jeanette Brazzara?

5 A Maybe -- I would suspect more but, you
6 know, but three or four or five. I mean, that's the
7 number, and with Jeanette specifically it didn't just
8 relate to Don. So this was a subject that came up,
9 and for some reason it came up a lot more with
10 Jeanette than it did under Robert. I don't know why,
11 and it didn't necessarily relate to Don.

12 Q You mean, there were other people doing
13 the same thing?

14 A Other -- well, CTO and travel, to me, are
15 kind of, you know, related. I mean, this is the
16 context. It's not like we're saying you've got to
17 work twelve hours today at the office.

18 It's usually I've been at an exam in, you
19 know, Miami, and there's a three-hour time difference
20 and I had to catch a flight at 9:00 and it didn't
21 land until 4:00. Then I waited, you know -- that's
22 usually the context.

23 It's on travel days where you're going
24 cross-country and maybe there isn't a direct flight
25 there, or you have to take, you know -- rent a car to

1 get to your destination because there isn't, you
2 know, a flight that goes to the location of the
3 company's headquarters.

4 So to me, at least in my mind, travel and
5 CTO are very much two facets of the same issue, and
6 so with Jeanette, for some reason, it just seems to
7 come up more, and you know, again, I'm just saying --
8 so my conversations with Jeanette would be more
9 numerous than with Robert just because it seems like
10 for some reason, and I don't know why, it was more of
11 an issue with her.

12 Q Was there ever anything put in writing to
13 Don Lake about these concerns that he was, quote,
14 unquote, "angling" as it relates to CTO?

15 A No, not that I'm aware of at least.

16 Q Did you ever have any discussion with
17 Don Lake about his handling of CTO?

18 A I think at one point I may have. You
19 know, I've had many, many conversations with Don, and
20 I think at one point I may have said to Don look.
21 Just work with whoever it was, and, you know, this is
22 just not the type of thing that any of us needs to be
23 spending too much time on. I don't remember the
24 context specifically beyond that. Just, you know,
25 can you work it out? But that was it.

1 Q You had no direct involvement, though, as
2 it related to the issues with the Canada trip and CTO
3 and Don Lake?

4 A None that I recall, no.

5 Q And you didn't find out about that until
6 recently. Did I understand that correctly?

7 A The specifics of there was a trip to
8 Canada that Don Lake is complaining about in the
9 context of this lawsuit? No, I had no idea about
10 that outside of this lawsuit and these proceedings.

11 Q Now, Don Lake -- what office was he
12 working in in 2005?

13 A He would have been based out of
14 Sacramento still because he hadn't transferred to
15 San Diego. So Sacramento.

16 Q Okay. At some point he went to the
17 San Diego office?

18 A That's right.

19 Q Prior to Don Lake going to the San Diego
20 office, we talked about earlier -- about the set-up
21 of Money Transmitters and those individuals
22 underneath you.

23 My question for you is: Were they all in
24 Sacramento, San Francisco? Where were the people
25 that you -- that were underneath you?

1 A It varied, and your question was before
2 2005?

3 Q Before Don Lake moved to San Diego --

4 A Oh, before he --

5 Q -- but in 2005.

6 A Well, I think -- I'm sorry. He moved
7 in -- I think he started, basically, January 1, 2007,
8 to start the new year. So it was 2007 when he
9 started in San Diego, as I recall. So the staff was,
10 basically, in San Francisco.

11 The exceptions to that were Pat Lum -- he
12 was also based in Sacramento -- and Ros. Ros was in
13 the San Diego office, and, again, they were half
14 time, rotating in half of the time and then going
15 back out to their other duties for the other half of
16 the year.

17 And then, you know, there would be
18 examiners that rotationally would come in that never
19 were assigned to Money Transmitters but would rotate
20 in, and this was in, you know, 2004, even through
21 2005, before we started getting our own people full
22 time, and some of them might be in the San Francisco
23 office and some were in the Los Angeles office,
24 because we have a lot of companies down in Southern
25 California, and so there would be some of these sort

1 of, you know, for lack of a better term, rotational
2 examiners that would come in and help. So there were
3 a handful down in Los Angeles as well.

4 Q Now, are you familiar with the facts
5 surrounding when Mr. Lake was planning on moving to
6 San Diego?

7 A Yes.

8 Q Tell me what your understanding was as to
9 what precipitated it.

10 MR. KNUDSEN: And again -- one second.
11 Again, this might ask for speculation from the
12 witness.

13 So please answer based on your personal
14 knowledge, what Mr. Lake may have told you, that sort
15 of stuff, rather than just guessing what someone
16 might be thinking.

17 THE WITNESS: I'm sorry. Could you then
18 repeat the question that was posed? I just want to
19 make sure that I'm answering the question.

20 MR. KODAM: Can you read the question,
21 please.

22 (Record read.)

23 THE WITNESS: It was -- Don Lake had
24 requested to move to San Diego, and for a long time I
25 had known that that was his goal -- was he wanted to

1 move down to San Diego and retire down in San Diego,
2 and I think I was aware of that definitely in 2004 in
3 the context of when -- remember I said when he
4 came in it was sort of voluntary, temporary? Let's
5 see how it works out, Don. If you want to stay, I'm
6 happy to have you.

7 And in the context of that, as we decided
8 he was going to stay, you know, it wasn't -- you
9 know, he just let me know. This is what I want to do
10 in the long run. I don't want to do it now, but
11 that's where I kind of see myself, and that was
12 always -- it was just, you know, I would say in two
13 thousand -- it became more of a topic of conversation
14 in 2005, and I think in late -- I'm trying to get my
15 dates right here, but I think in late 2005 Don,
16 basically, said hey. I need to move to San Diego.

17 BY MR. KODAM:

18 Q You said late 2005?

19 A Yeah. I'm trying to think -- yeah, I
20 think it was late 2005. I remember it being around
21 Thanksgiving or something like that.

22 Q Did he give -- sorry. I didn't mean to
23 interrupt you.

24 A I'm not 100% sure of when this was, but
25 that's my best estimate.

1 Q Did he give you any sort of explanation
2 or reason?

3 A Well, let me tell you what he said. He
4 said, hey, you know -- my understanding was --
5 because it came up. It just sort of came up between
6 us, and I said -- what I told Don was that, Don, I
7 think I can help you, but you need to give me real
8 advance notice to make this work because that wasn't
9 something that routinely people did, and, in
10 particular, the San Diego office is a tiny little
11 space and it belongs to Banking. It really sort of
12 belongs to the Banking Division.

13 San Diego is kind of a little outpost,
14 and I said just give me warning, and then that's
15 why -- I remember this being in 2005 in conversation,
16 and he said, yeah, well, now's the time. I kind of
17 want to get the ball rolling on this, and he told me
18 if you can't arrange this I will have to leave DFI
19 because I'm going down to San Diego. I just need to
20 go down to San Diego, and I said, Don, I'm going to
21 do my best, and that is what I recall from that
22 conversation around that time.

23 MR. KNUDSEN: And, Bob, I think Daniel
24 was just asking you if at any time, whether in that
25 conversation or another conversation, he told you why

1 he wanted to move to San Diego.

2 THE WITNESS: Oh, sorry.

3 MR. KODAM: I was going to get back to
4 it.

5 THE WITNESS: Here's the why. The why
6 was his mom is down there. She was getting old. I
7 was under the impression there was no other person in
8 his immediate family. I have no idea if Don has a
9 brother or sister. I have no clue, but my impression
10 was he was the sole caretaker. I think he grew up
11 down there. I think it was in Coronado.

12 I'm not that familiar with San Diego,
13 but I think it's Coronado, and the other thing was
14 property, and I don't know if Don told me this or
15 this is, again, something I heard from somebody
16 else. I think Don had real estate down there or his
17 family had real estate that needed to be managed, and
18 he just wanted to be closer to his mom, and maybe
19 there's some real estate interest or something like
20 that.

21 That was the general idea. He grew up
22 there. He wanted to retire there. He wanted to be
23 close to his mom, and he was going to do it, you
24 know, was basically -- this was going to happen
25 sometime in the next year. That's something he

1 wanted to do.

2 MR. KODAM: Let's go off the record for a
3 second. I've got a voicemail I need to listen to.
4 Why don't we take a quick break. Last break --

5 MR. KNUDSEN: Sure.

6 MR. KODAM: -- unless we go a little
7 further, and we'll see how we're doing.

8 (Recess.)

9 MR. KODAM: What was my last question?

10 (Rcord read.)

11 BY MR. KODAM:

12 Q Going back on the record.

13 What did you do after you had this
14 discussion with Don Lake in, I think you said in
15 November of '05, or late '05 you said, where he
16 pretty much said I will have to leave DFI if I can't
17 move to San Diego?

18 A I don't recall specifically doing
19 anything, but I do know that somewhere in the
20 next -- whether it was the next month, couple of
21 months or what have you, what I did was talk to
22 Carol Chesbrough about it, both to -- to inform her
23 of, you know, Don's request and my willingness to
24 accommodate him but also to solicit advice as to what
25 might be the best way to achieve it, and that would

1 have been the nature of my conversations with her.

2 And then somewhere in that same time
3 period I'm sure what I did is I reached out to
4 Craig Carlson. He -- goodness. What was he at the
5 time. He was the Deputy Commissioner for banks, who
6 was down in San Diego. He became the Chief Bank
7 Examiner, but I'm not quite sure of the timing of
8 when that happened, but in any case he was definitely
9 the person, you know, in charge of that office.

10 I reached out to him and let him know
11 about the request, and it wasn't immediate but that I
12 wanted to sort of talk to him about it, and his, you
13 know -- basically, that's where we left off, and, you
14 know, so I think all of that would have happened
15 somewhere in early 2006 or something like that.

16 Q From the moment you had this discussion
17 with Don Lake that he needed to move until the moment
18 he was transferred to San Diego, how long was it?

19 A I think -- he wasn't transferred, as I
20 recall at least, until the end of '07. I'm sorry.
21 End of '06, right. So he started January of '07. So
22 as I remember it, you know, that would have been the
23 time frame, you know.

24 That's when, you know, I remember
25 thinking okay. Don wants to move, you know, and

1 now's the time to get this started, and, again,
2 that's where it culminated. So I guess a year maybe.

3 Q From the late '05 discussion until he
4 moved, did you have any further conversation with
5 Don Lake --

6 A Oh, yeah.

7 Q -- about moving?

8 A Yeah.

9 Q How many?

10 A Oh, I think it was sort of ongoing.
11 Easily half a dozen -- easily.

12 Q And then in that initial discussion with
13 Craig Carlson, what did he tell you with regards to
14 the feasibility of such a move?

15 A He said he thought it would be, that they
16 had plans to bring on some more staff down there, and
17 I think it might have even been in the midst of a
18 remodel of some sort, or they may have completed a
19 remodel.

20 I could be wrong about that, or maybe
21 they were redesigning cubicles or something or other,
22 and I think what he wanted to know is how imminent
23 and urgent was this, and I said, you know, I think in
24 the next year or so roughly. This isn't urgent, but
25 this is something, I'm sure -- his mom's down there.

1 Why does he want to -- his mom's down there. It's
2 where he grew up.

3 And so I think the idea was he was open
4 to it, but he wanted to, since it wasn't urgent, you
5 know, think about it and see how he could make it
6 work. That would be, you know, the initial
7 conversations with Craig, how they worked, you know.

8 That's, basically, what I remember
9 transpiring.

10 Q Now, I presume you had further
11 conversations with Craig about that?

12 A Yeah, with Craig and also with
13 Albert Marquez, who was his, you know, the FIM in
14 that office, and I can remember independent -- or
15 separately talking to Craig about this as things went
16 on and then, you know, having candid conversations
17 about Don and what his concerns were, you know,
18 unrelated to the space issue and more related to
19 whether he would be a good citizen down there, you
20 know. Could he get along with folks and not be a
21 rabble rouser, that kind of thing, and I said, yeah,
22 he's going to walk the straight and narrow. He won't
23 cause any problems.

24 And then with Albert Marquez
25 specifically, I remember having a telephone

1 conference where we both were on the line, asking me
2 the same sort of questions and wanting to get an
3 understanding of how often he would be in the office,
4 and it was unclear if there would be any space, and,
5 you know, what kind of space constraints there were,
6 but, obviously, they were mostly concerned with, in
7 addition to making sure there was room, with making
8 sure he would be a good colleague to work with or
9 have in that small office space.

10 Q Did you bring up any of Mr. Lake's prior
11 concerns or any issues about the "angling" of CTO, as
12 you, quote, unquote, put it?

13 A No. No. That wouldn't be their concern
14 at all. We would still manage Don in terms of his
15 work, travel, all of that. That wouldn't even be in
16 the realm of something that they would be concerned
17 about.

18 Q What about his prior complaints against
19 Julio Prada?

20 A I don't recall speaking to Albert Marquez
21 about that. I do recall having a conversation with
22 Craig, probably at the beginning of this process,
23 about Don and Julio, probably a complaint. That must
24 have been what we were talking about, but what I was
25 talking about just generally was that, you know, I

1 think they had issues in terms of how they
2 communicated with each other and how they got along.

3 I don't think they particularly liked
4 each other. Maybe just, you know -- you don't have
5 to like your colleagues, but I don't think that they
6 like each other, but it wasn't -- how would I put
7 this? I wanted Don to move down to San Diego. So I
8 wasn't exactly volunteering any information I had or
9 even opinions I might have had about Don that were
10 derogatory.

11 It would have always been in the context
12 of Craig saying what about this? I heard this. What
13 about this? Because, as I said, I wanted Don to move
14 down there. I didn't want to lose him. I thought he
15 was still a valuable asset. In fact, I thought it
16 would be good idea to have someone in Southern
17 California because we do have work that needs to be
18 done in San Diego. There's so many agents and money
19 transmitters with locations right on the border --

20 MR. KNUDSEN: Bob, at this point you've
21 gone beyond the question a little bit. So I'm sure
22 Daniel can ask you another question.

23 THE WITNESS: Okay. I guess my point is
24 I don't remember the details of the conversation.
25 Pardon me, but I want to get this out there.

1 I would be motivated to get him down
2 there, and so, therefore, I would not have
3 volunteered any information that would be derogatory
4 about Don.

5 MR. KODAM: Off the record.

6 (Discussion off the record.)

7 BY MR. KODAM:

8 Q Back on the record.

9 At some point the move was finalized?

10 A Uh-huh.

11 Q Is that a yes?

12 A I'm sorry. Yes.

13 Q When it was finalized, what was the
14 arrangement that was reached as far as space with
15 Craig Carlson or Albert Marquez, whoever it was
16 finalized with?

17 A The basic contours of this were Don would
18 roughly, because of his position as a field examiner,
19 be 50%, maybe 40, 50% in the field, which means out
20 of the office.

21 So -- and then that would leave the
22 remaining amount of time in the office, and I said to
23 Don and to Craig and to Albert that I was comfortable
24 with as much as a 50-25-25 split, meaning 50% in the
25 field, 25% telework, 25% in the office.

1 Q The 25% -- 25-25-50% ratio, was that
2 discussed with his supervisor?

3 Who was his supervisor?

4 A It would have been Julio.

5 Q Did you discuss that at all with him?

6 A I believe I did.

7 Q And what did Julio tell you?

8 A I don't recall specifically. It would
9 have been just as part of a conversation of, hey, you
10 know, I'm still working on having him go down there.
11 Looks like this will work out. Looks like we've
12 tentatively agreed to this sort of -- he was in the
13 field 50% of the time anyway, and they were just
14 worried about whether they have space for him.

15 So I told folks, hey, if he has to
16 telework as much as 25% we could accommodate that,
17 that I would be comfortable with that, but they --
18 you know, they wanted, you know -- but I did say can
19 you guys at least make sure that for 25% of the time,
20 theoretically, that he's got a place to work?
21 Because he needs some office space and some office
22 time just because of the nature of his work. So I'm
23 pretty sure I would have had that kind of a
24 conversation with Julio.

25 Q Were there any memos or correspondence,

1 emails, that were exchanged between you and
2 Craig Carlson or Don or Julio regarding this move?

3 A Regarding the move or this 25-25-50
4 arrangement?

5 Q Regarding the final arrangement for the
6 move, the 25-25-50.

7 A I don't think so. I doubt it, in fact.

8 Q At some point you discussed this with Don
9 about the ratio, did you not?

10 A Yes. Uh-huh.

11 Q And what did Don tell you?

12 A That he was -- that would be fine with
13 him. His concern was just about can he do this or
14 not? It wasn't, you know -- he didn't particularly
15 care. At least I don't remember in our discussions
16 any issue or concern on his part of whether it was,
17 you know -- what the percentages were. Our
18 conversations, that I recall at least, were, you
19 know, can I move to San Diego and remain a DFI
20 employee?

21 So I think, you know, I'm sure I said,
22 hey, you know, this is an arrangement we're thinking
23 about possibly. Assuming -- if they can't
24 accommodate you, you might be able to work as much as
25 25% from home, but we'll see what happens, that this

1 was sort of a 50-25-25 ratio.

2 I mean, I'm sure I would have expressed
3 it to him, but it certainly wasn't part of what, at
4 least my impression, what was important to Don. It
5 was all about can I move to San Diego, or let me move
6 down there.

7 Q What discussions, if any, were had on how
8 he'd go about getting the telework?

9 A I don't remember ever having a
10 conversation with Don Lake about telework until
11 much -- until much later about how you go about doing
12 telework. I can tell you what the normal practice
13 was with respect to telework and how people request
14 it and get approval to do telework.

15 Q All right. We're going to get to that.

16 A Sure.

17 MR. KODAM: I'm right now deciding
18 whether we have time to get into that. What the
19 heck. I don't have copies, but I'll make copies for
20 you of this and I'll give it to you probably
21 tomorrow, just FYI, but I'm going to hand you what
22 I'm marking as Exhibit 3. It's titled "Telework,
23 Section P," as in Paul, and it's DFI Bates stamped
24 136 to 139, and I apologize, Counsel --

25 MR. KNUDSEN: No problem.

1 MR. KNUDSEN: Take the time to read it.

2 MR. KODAM: I'm going to give you this at
3 the same time. We're going to mark this as
4 Exhibit 4. This is a "Department of Financial
5 Institutions Telework Program, 1380, Policy and
6 Procedures Manual," DFI pages 168 through 191, and,
7 again, I will give you a copy tomorrow.

8 (Exhibits 3 and 4 were marked for identification.)

9 BY MR. KODAM:

10 Q If you could take a few minutes to review
11 that and let me know when you're ready.

12 (Witness reviewing documents.)

13 BY MR. KODAM:

14 Q Are you ready, sir?

15 A Uh-huh. Yes, I am.

16 Q Have you had a chance to review those
17 documents?

18 A Yes.

19 Q Do you recognize them?

20 A Yes.

21 Q The shorter one, the one that's the
22 Section P, what is that, first of all?

23 A That's a good question. I think this is
24 an excerpt from a manual like that you get when
25 you're first hired at DFI. So this -- I hope I'm

1 right. It's a section of like an employee manual. I
2 don't know whether it's called that but something
3 along those lines.

4 Q What about Exhibit 4?

5 What is that document?

6 A I know I've seen this before. I think
7 this is a policy statement, although I'm a little
8 confused about whether this is part of our policies
9 and procedures manual or not. We have another thing
10 called a policies and procedures manual.

11 Q Take a few minutes to review it.

12 A I don't know that looking at it any
13 further would clarify that for me, but that's what I
14 think this is. Oh, it says right here. 1380,
15 policies -- yeah. So that's what this is. It's part
16 of the policies and procedures manual.

17 Q Okay. What's the difference between
18 these two, as far as your understanding?

19 MR. KNUDSEN: Well, object as vague and
20 ambiguous. Overbroad. Almost impossible to answer.

21 THE WITNESS: I don't know the answer as
22 to why we would have a statement in two different
23 documents.

24 MR. KODAM: I was just curious. It was
25 more my own curiosity -- that question.

1 BY MR. KODAM:

2 Q What is your understanding on what the
3 telework procedures are as it's stated in there?

4 A Well, it's at a manager's discretion, and
5 before you set it up there's some documents that need
6 to be filled out and signed, and so, you know, for
7 example, what reminded me of this is I remember doing
8 this once myself way back when, you know. What kind
9 of home environment, home office environment, do you
10 have, and I remember filling one of these things out
11 a long time ago myself.

12 So anyway you fill out the paperwork,
13 essentially, and at least on the examination side you
14 make a request for telework in advance with your
15 manager and the manager approves it, and so that's,
16 basically, you know, the procedure for it.

17 Q Now, is it on a -- how to phrase this.

18 Is it on a like a day-to-day basis, or
19 can you make a -- like you had mentioned the 25% of
20 the time telework. Can it be that broad of a
21 request?

22 A It's highly unusual, and, I mean, it
23 could be. I mean, a manager could say spend the
24 next, you know, month working from home
25 theoretically, as far as I know, but that would not

1 be common.

2 What's common practice is more, you
3 know -- I'm an examiner, for example, and I have to
4 write up an application and finish up an exam report,
5 and you'd send an email -- it's usually done by
6 email, but I don't particularly care.

7 The basic idea is the person requesting
8 the telework would say can I work from home on
9 Wednesday and Thursday, and this is what I'm going to
10 work on, and this is when I think I'll be finished
11 with the assignment. So the manager says sure.
12 Great. Go for it.

13 Q How far in advance do these requests have
14 to be?

15 A I don't think there's any particular
16 requirement. Generally, in advance. So -- but it
17 wouldn't be appropriate to call up, you know, Monday
18 morning. It's 9:30. Where are you? Well, I'm at
19 home teleworking today.

20 It would have to be, you know, I would
21 think a day or two before and maybe as far in advance
22 as a week, you know. I leave that to, you know, the
23 managers and their staff to figure out.

24 Q With regard to Don's move to San Diego,
25 prior to the move did you, Julio and Don ever meet,

1 whether together or have an independent discussion
2 with him and say all right. This is how I want it to
3 work since there's so much telework going to be
4 involved in this move?

5 A No, and just to clarify something, there
6 was never any agreement at all that, Don, I'm
7 guaranteeing that you're going to get to telework 25%
8 of the time. That was never discussed and never
9 agreed to.

10 The context was in terms of a space
11 constraint down there and making sure that as long as
12 Craig and Albert could tell us, tell me, that they
13 could make space for Don for at least three months
14 out of the year, then I would be willing to
15 accommodate his move, but other than that it wouldn't
16 work out for us.

17 It was a way to get the accommodation
18 from the Banking Department folks that they would
19 make sure there was some space available for him and,
20 hopefully, more than that. Hopefully -- who knows --
21 there might be a cubicle that might actually just be
22 assigned to him.

23 So this wasn't like a regular telework
24 arrangement. It was just, if we need to, we can get
25 up to 25% of the time telework and, you know, just do

1 it the way every other telework request is done.

2 Q How was this functionally supposed to
3 work? And let me explain what I mean by that
4 question. Don is in the field 50% of the time given,
5 but the other 50% of the time does he call in in the
6 morning, hey, do I have a desk available?

7 I mean, how did that work?

8 A We weren't sure, before this all actually
9 happened, how that was going to work.

10 Q Okay.

11 A So that was part of the problem, one I
12 was willing to risk because I just had -- as soon as
13 I got a sense they were going to work with us, I
14 figured we'd figure it out one way or another.

15 Q So Don starts there in the beginning of
16 2007, and he goes there. Within the first two months
17 how did you find out how it was going to work?
18 Actually, let me rephrase that.

19 How did it end up working?

20 A I couldn't tell you. I -- frankly, I
21 felt like my involvement was done. All I wanted to
22 know was -- and this is my communication with Craig
23 and Albert directly and had nothing to do with
24 anybody in my group -- was how's it working out from
25 your perspective? Everything -- as far as you guys

1 are concerned, everything cool with you? That was my
2 primary concern.

3 In terms of his day-to-day work, his
4 interactions with Julio or, you know, the FIS --
5 because, again, I think I mentioned part of the exam
6 process, even though an SFIE would report to the FIM,
7 the FIS was the sort of the manager in terms of
8 coordinating.

9 So a lot of communications would be
10 between Don and the FIS, and so, you know, he's just
11 in a different office, but he -- the actual function
12 wouldn't be too much different than when he was in
13 Sacramento. He was just farther away.

14 Q When Don went to San Diego, prior to him
15 leaving did you, I guess -- strike that. I'm going
16 to start over. That is what happens late in the
17 day. I'm going to paraphrase here.

18 It's my understanding that, basically,
19 you talked to Don. You talked to Julio and said it's
20 probably going to be something like 50% field, 25%
21 telework and 25% office, and we'll have to figure it
22 out as we go, and are you guys okay with that, and
23 everyone said okay and he went?

24 A In a nutshell, yeah. I have never had a
25 sit down in the office, with Don to my left and Julio

1 to my right, saying this is how it's going to be guys
2 because, frankly, you know, as far as I knew,
3 basically, everything was fine.

4 This was all about whether the Banking
5 Division would accommodate that, and also what would
6 they expect from me in return. They were doing me a
7 favor, and the culture of our department is, well,
8 now it's your turn. Do me a favor, and that's what I
9 was concerned about and making sure, as part of the
10 bargain, that Don held up his end, which was to be a
11 good citizen down there, get along with everybody and
12 so on. That was literally what I was most concerned
13 about.

14 Q Because of the Julio Prada complaint, or
15 was there some other reason you were concerned about
16 that?

17 MR. KNUDSEN: Well, misstates the
18 witness's previous testimony.

19 You may answer, however.

20 THE WITNESS: Just generally because of,
21 you know, Don's reputation, things Don had told me
22 about how he felt he was perceived by the Banking
23 Division, and it was confirmed, you know, in my
24 conversations during this whole process when I was
25 talking to Craig Carlson and Albert Marquez.

1 They were asking me questions like what
2 do I know about Don. How is he to work with. That's
3 what they were concerned about, too.

4 BY MR. KODAM:

5 Q Is this the same stuff we've already
6 talked about, or is this additional stuff? Because
7 you mentioned earlier, right before he came to San
8 Francisco, that you had heard about how he had some
9 interpersonal issue stuff with management,
10 et cetera.

11 Was it that, or was it something beyond
12 that?

13 A I don't know because I never asked them
14 why are you guys so worried about this? So I don't
15 know. I don't know what they'd heard or what their
16 impression was or if there was any specific thing
17 they were thinking about. I just don't recall
18 anything specific like that coming up.

19 Q Do you recall the questions they asked?

20 A Yeah. They said, well, you know, how's
21 he get along with folks? And, you know, what happens
22 if -- Ros is in that office, you know. What happens
23 if he and Ros start, you know, conspiring to do --
24 whatever, file a complaint.

25 Those were the kinds of questions, and I

1 said -- I said, basically, look. He's going to be
2 all right. He knows you guys are doing him a favor.
3 He's told me he's going to walk the straight and
4 narrow. He's going to be a good guy. Don's a good
5 guy. He's a little weird, but, basically, you guys
6 will get along fine, and I said if this doesn't work
7 then I guess we'll bring him back, you know. We'll
8 figure out some way of bringing him back.

9 I don't know how we could do that
10 mechanically, you know, realistically, to tell you
11 the truth, but I do remember telling them hey look.
12 If this doesn't work out, we'll make it work, you
13 know, but -- you know. I don't know what I would
14 have done but, you know --

15 Q Has it worked out?

16 A Yes. In terms of him being a good
17 citizen down in the San Diego office the answer is,
18 without a doubt, yes, except for one incident that I
19 heard of, and it actually involved Ros, but other
20 than -- and it wasn't that big a deal, and he's --
21 I've asked many times when I talked to Craig, who is
22 retired recently by the way, and every time I always
23 got positive feedback, but, no, there's no problems
24 at all. He's been fine, and the one time evidently
25 he made some joke and Ros got upset. I heard that.

1 Q What was the joke?

2 A I have no idea. The only thing I heard
3 was that Ros got upset at Don because she didn't like
4 some kind of joke he had said.

5 Q Now, after he moved to San Diego was
6 there some point where there was issues with the
7 telework situation that arose?

8 A Yes.

9 Q Based on your knowledge, what was your
10 understanding of the issue that arose?

11 A That Don had never been allowed to
12 telework -- was what I recall being the issue that he
13 was complaining about.

14 Q When did the issue arise?

15 A I'm trying -- I don't know if anyone -- I
16 think early 2008. Does that make sense. I don't
17 know. I think it was early 2008 but the winter, you
18 know, January-February 2008, something like that.

19 Q Did he raise this issue to you directly?

20 A You know, I don't remember.

21 Q What did you do once you heard about this
22 issue?

23 A I talked to Julio just to confirm whether
24 or not he'd ever been allowed to telework and then
25 talked to Don, just, you know, had he ever been

1 allowed to telework, and what I had confirmed is
2 that, basically, it looked like he actually never had
3 been. He'd never teleworked.

4 "Been allowed to telework" might not be
5 the right phrase but that he never -- he hadn't
6 teleworked, and Don, I think, said he'd never
7 teleworked at all. I think Julio felt that he had
8 teleworked on occasion.

9 I'm just going from memory, but there was
10 clearly a major dispute between them on the subject
11 of telework.

12 Q When you approached -- I almost want to
13 say John -- Julio. When you approached Julio on the
14 subject, to the best of your recollection, tell me
15 exactly what was said by Julio when you asked him
16 if -- why Don -- or what the situation was with Don's
17 telework.

18 A My best recollection was that he said he
19 thought Don had teleworked from time to time but
20 that -- that Don didn't ask, or when it did come up
21 Julio would say okay. Tell me what you're going to
22 work on, Don, and when, and as I recall it Julio said
23 he would never send me an email, you know. He would
24 never send me an email saying, you know, I want to
25 work on Tuesday -- telework, you know, on -- sorry,

1 you know, on Friday or Thursday. I'm going to work
2 on this application and, you know, finish up this
3 exam.

4 I mean, that was kind of the take-away I
5 had from my conversations with Julio. It was his own
6 personal frustration that I've told him he could
7 telework. All he has to do is what everybody else
8 does.

9 Q Now, as it relates to teleworking, the
10 individuals who are at the San Francisco office, the
11 SFIEs and FIEs, do they telework ever?

12 A I think everybody was treated the same
13 under the policy that I've described to you.

14 Q What percentage of the time would they
15 telework, on average?

16 MR. KNUDSEN: Well, objection. That may
17 call for speculation from this witness.

18 BY MR. KODAM:

19 Q To the extent you know.

20 A I don't know the details specifically. I
21 can give you examples that I know of and situations
22 that I know of.

23 So, for example, I know that we have
24 allowed someone to telework for an entire week, but
25 that was because they were prepping for an exam.

1 That was part of some of the credentialing, you
2 know. There are examinations. It's part of the
3 training of an examiner.

4 So we've allowed people to do that sort
5 of thing. Just stay at home and spend the next 48
6 hours just studying for this exam because it's
7 important to everybody that you pass, that kind of
8 thing. I know that we -- but that's highly unusual.

9 That's why I remember that, but I know
10 we've allowed people to telework in situations -- oh,
11 another -- actually, a situation where we've let
12 someone telework for a week is there have been online
13 trainings that take a week, you know, and we say
14 fine. Just do it from home. No need for you to
15 commute into the office if all you're going to be
16 doing is training online.

17 More typically, it's one day here, two
18 days there and, again, related to specific tasks
19 that, you know, that you're working on and that need
20 to be completed.

21 Q Were the telework requests kept in any
22 sort of a file or anything?

23 A I don't know.

24 Q You telework sometimes; am I correct?

25 A Yes.

1 Q I presume -- do you have to send a request
2 to your supervisor?

3 A I let Carol know or the Commissioner know
4 that I'll be working from home.

5 Q So it's a little different for you?

6 A Yes.

7 MR. KODAM: This is a good stopping
8 point. So we'll stop for the day.

9 (Volume I of the deposition
10 of robert Venchiarutti was
11 concluded at 4:35 p.m.)
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1 DECLARATION UNDER PENALTY OF PERJURY

2 I hereby certify under penalty of perjury
3 that I have read the foregoing transcript.
4 Corrections, if any, were noted by me, and the same
5 is now a true and correct transcript of my testimony.

6 Executed this_____day of_____,
7 20____, at_____, California

8 _____
9 Robert Venchiarutti

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DONALD LAKE,)	
)	
Plaintiff,)	
vs.)	CASE NO. 37-2009-
)	00102604-CV-OE-CTL
CALIFORNIA DEPARTMENT OF)	
FINANCIAL INSTITUTIONS)	
ET AL.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF ROBERT VENCHIARUTTI

VOLUME II

Oakland, California

Friday, July 23, 2010

Reported by:
Debra L. Pope, CSR
CSR No. 4229
Job No. 20280

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN DIEGO
3
4

5 DONALD LAKE,)
6 Plaintiff,)
7 vs.)
8 CALIFORNIA DEPARTMENT OF)
9 FINANCIAL INSTITUTIONS)
10 ET AL.,)
Defendants.)
_____)

CASE NO. 37-2009-
00102604-CV-OE-CTL

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13
14
15 The Deposition of ROBERT VENCHIARUTTI,
16 taken on behalf of the Plaintiff, at
17 Marriott Courtyard Oakland Airport,
18 350 Hegenberger Road, Oakland, California,
19 94621, beginning at 9:10 a.m. and
20 ending at 3:30 p.m., on Friday,
21 July 23rd, 2010, before DEBRA L. POPE,
22 Certified Shorthand Reporter No. 4229.
23
24
25

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E X H I B I T S

NO.	DESCRIPTION	PAGE
5	Email string, top email from Donald Lake to Anne Jordan, November 09, 2007, Bates No. DFI 0000206	172
6	Multi-page document containing Individual Development Plans for Donald Lake, first page Bates No. DFI 0000658	196
7	7-page Memorandum to DFI Employees from Robbin Kleinsorge, July 2, 2003, Subject: Travel and Overtime, Bates Nos. DFI 0000264-270	198
8	Department of Financial Institutions Policy Number 1360, Version 2.0 Bates Nos. DFI 0000157-167	201
9	Audio Transcription of Robert Venchiarutti, April 8, 2008	205

Oakland, California

Friday, July 23, 2010

ROBERT VENCHIARUTTI,
called as a witness herein, having been first duly
resworn by the Certified Shorthand Reporter, was
examined and testified as follows:

EXAMINATION

BY MR. KODAM:

Q Bob, the oath that you just took is the
same one as you took yesterday. Do you need me to go
over any of the ground rules again, or do you recall
them?

A I recall them.

Q And you recall that I'm just looking for
your best testimony here today; is that correct?

A Yes.

Q Okay. I didn't ask you this yesterday,
but I'll include yesterday and today.

Did you review any documents in
preparation for yesterday's or today's deposition?

A Yes.

Q What did you review?

A I read transcripts of my interview,

1 interviews, I guess -- one I think. I honestly don't
2 know. One was an external investigator in Oakland.
3 The other was -- I was interviewed by Anne Jordan of
4 our department, DFI, and these are in 2008.

5 Q Anything else?

6 A And the first -- I don't know -- binder,
7 the first transcript of Don Lake's deposition, and I
8 got maybe halfway -- two-thirds of the way through
9 the second -- I'm sorry -- whatever you call it, the
10 printout of the second -- the transcript of his
11 second deposition or second deposition transcript.

12 I'm sorry. There's a name for it, I
13 guess. It's just not coming to mind.

14 Q Anything else?

15 A No, that's it.

16 Q Outside of your counsel, did you speak to
17 anyone about your deposition yesterday or today?

18 A Not in terms of the content. I notified
19 Carol Chesbrough that I was going to be deposed so
20 they would know where I was.

21 Q Anyone else that you spoke to besides
22 Carol?

23 A Maybe I talked to Julio. Julio's going
24 on vacation for three weeks, I think, yesterday or
25 today, and so I think because our -- I just wanted to

1 make sure -- because I'll see my other managers.
2 They're around, but I won't see him for a while. So
3 I may have told him that I was going to be deposed.

4 I'm not too sure, tell you the truth.

5 Q Anyone else?

6 A I don't think so.

7 Q And you didn't speak to anyone about the
8 content, you said?

9 Just for purposes of notification?

10 A Correct.

11 Q Within the DFI you have these FIEs and
12 SFIEs in the Money Transmitter Division.

13 Do these titles also exist within Banking
14 or other divisions within DFI?

15 A Yes, the Banking Division as well as the
16 Credit Division.

17 Q In what way are the Money Transmitters'
18 DFIs -- I'm sorry -- FIEs and SFIEs different in
19 their job duties, if you know, than those in the
20 other two divisions?

21 A You know, it's hard to say. I mean, I
22 think they're fundamentally the same,
23 philosophically, in the sense that they have to do
24 the same thing and have the same duties.

25 They are different in the sense that the

1 institutions that they regulate are, basically,
2 different. Money transmitters are not depository
3 institutions, you know. Credit unions are and banks
4 are, and even between banks and credit unions they
5 are -- they're different, you know. It's just a
6 different industry. Different cultures, different
7 histories in terms of how they operate.

8 Most fundamentally, credit unions are
9 non-profits. They can't raise capital. They only
10 raise capital through people depositing funds, and
11 banks are more like corporate entities and so on and
12 so forth.

13 And money transmitters, again -- it's
14 just a different culture in the sense that you have
15 very large, sophisticated companies like
16 Western Union or PayPal. Google, for example. We
17 license Google now. And then you have very small,
18 unsophisticated mom-and-pop companies in the
19 industry.

20 So my point is fundamentally they do the
21 same thing, but as a practical matter the industries
22 you are examining are really different, particularly
23 when you get good at this. They're just different
24 industries, and you have to be aware of the
25 differences.

1 Q And this is only if you know -- because I
2 know you've been in Money Transmitters, but you were
3 a staff attorney and have been with the department
4 for a while. I understand that they're different
5 entities, but as far as the examinations and the
6 reports, are they similar in terms of how to approach
7 them? And let me state it a different way.

8 Can an examiner for the Banking or
9 Credit Union Division come to Money Transmitters and
10 fairly easily step in, or is there a huge learning
11 curve, if you know?

12 A I do know, and the last part of your
13 question -- there is a learning curve, and how steep
14 that is depends on, frankly, the skill of the
15 examiner, and it really varies.

16 And I would say the thing about an
17 examiner, first of all, is it takes about three to
18 five years before we even consider you competent, you
19 know. To get someone really seasoned takes that
20 long, but some get there sooner and others never get
21 there, if you understand what I'm trying to say, and
22 so although -- and this is another thing.

23 A good examiner who has, let's say, five
24 years under his or her belt can go and do another
25 exam, and often they do to help, but it would be

1 unrealistic to expect the same quality of work or to
2 expect that they would have -- could work without
3 close supervision and be as effective.

4 It wouldn't be fair to them, frankly,
5 because while things are very similar and there's a
6 lot of similar skill sets, you're in a completely
7 different arena. So, I mean, the analogy would be,
8 you know, you're a corporate lawyer and suddenly you
9 have to do regulatory work in health care. You
10 probably have skill sets that are very valuable, but
11 right off the bat you'd be a fish out of water and
12 have to get up to speed, but you would certainly have
13 an advantage over some guy off the street who might
14 be very smart.

15 So that's -- that would be an analogy in
16 our industry or among our staff.

17 Q When an examiner comes from one of these
18 other divisions, is there a training course, or how
19 do they get trained on money transmitting?

20 A No, there's no training course. I mean,
21 given the -- the hypothetical you're giving me where
22 we need help -- or there have been times we've lent
23 our examiners, by the way, to the banking side,
24 because, as you may know, banks are in a state of
25 crisis in the last couple of years.

1 Q Really? I've never noticed.

2 A So we've been lending folks in the other
3 direction in the last year or two. Before that,
4 there was always them coming in to pitch in for us
5 pretty much, and under that scenario it's just
6 on-the-job training. You come in. You wouldn't be
7 an EIC, for example, but under the direction of
8 either the manager or the EIC or seniors they'd say
9 hey. This is what I'd like you to do, and you just,
10 you know -- it's on-the-job training.

11 Now, in an ideal world it would be great
12 if we could give people more formal training across a
13 lot of disciplines, but as a practical matter we're
14 not there yet.

15 Q Now, I'm going to switch directions
16 slightly.

17 Do you guys have a timecard system? Let
18 me rephrase that. An electronic timecard system, or
19 is it all done manually?

20 MR. KNUDSEN: Objection. Vague and
21 ambiguous as phrased.

22 THE WITNESS: I don't think we have a
23 timecard -- when you say "timecard system," I'm
24 thinking of like one of those yellow cards that
25 you -- that's time stamped and "ching," and you've

1 got to put it on a wall, and then when you leave
2 you've got to go "ching," and we don't have one of
3 those systems.

4 We have a monthly report, the name of
5 which is an acronym. I think it's TARS or something
6 like that, and it's electronic now. I think it's
7 been electronic for like three years now. It used to
8 be -- I guess we always -- it's an electronic form
9 now.

10 You go online. There's a button, and it
11 populates a database and also generates an electronic
12 form they email, and they process the email out to
13 your supervisor who may put an electronic signature
14 on it, and, you know, it gets forwarded to the
15 appropriate people, you know, the time-keeping people
16 or the HR folks, I mean.

17 BY MR. KODAM:

18 Q So let's say I'm an examiner. I come in
19 to work. How do I do it so that my manager knows
20 I've clocked in?

21 A No, we're not like -- I see what you're
22 saying. Like how does the manager know a person has
23 showed up at eight o'clock and if their hours are
24 8:00 to 5:00?

25 Q Exactly.

1 A There's no formal system. There's an
2 amount of professionalism, and we just expect people
3 to put in their 40-hour work week, and only when
4 there is a problem would that be something we
5 would -- a manager would talk to a staff person
6 about.

7 Q So would you say it's say kind of based
8 on the honor system in that you fill it in. If you
9 find out something to the contrary, you can bring the
10 appropriate action, but it's kind of like that?

11 A I wouldn't say even "honor." I think
12 that overstates it. It's just, you know, you
13 don't -- going from the system where someone comes in
14 and punches a clock with a card, you know, I think
15 our view philosophically is that, you know, we don't
16 want to treat our examiners or our staff that way.

17 I think it's just -- it's the culture of
18 our organization that, you know, you're a
19 professional. Show up. Put in your full day. Put
20 in your full work week.

21 Having said that, I know that there are
22 times when I've heard of folks being spoken to, you
23 know, please start coming in at 8:30 instead of 9:15
24 or leave, you know -- don't leave as soon as you do
25 or don't take two-hour lunches, but I think that only

1 comes up when it really becomes apparent.

2 Q All right. I have a couple more
3 questions on Exhibit 1 from yesterday. If you go to
4 the second -- you remember this document, right?

5 A Yes, I do.

6 Q If you go to the second page, towards the
7 end -- I don't know where my copy went. Actually,
8 that is my copy.

9 MR. KODAM: Do you have your copy,
10 Counsel?

11 MR. KNUDSEN: I'll check.

12 MR. KODAM: That way I'm not trying to
13 guess.

14 MR. KNUDSEN: Slightly crumpled, but I do
15 have my copy.

16 MR. KODAM: So let me have the court
17 reporter's copy back, please.

18 BY MR. KODAM:

19 Q So if you could look at the second page,
20 on the second-to-the-last paragraph from the bottom
21 do you see where it starts, "We also ask"?

22 A Yes.

23 Q Was that meeting ever done?

24 A I don't recall having that meeting. So I
25 guess my answer, the best I can recall, is no. I

1 don't remember sitting in a room with -- I guess that
2 would be five of us.

3 Q Okay. Do you know why?

4 Do you recall why, I should say?

5 A I don't recall one way or another, to
6 tell you the truth.

7 Q Now, with regards to this complaint
8 letter, did you ask Don Lake to withdraw it at some
9 point?

10 A I mean, I know that Don sent me something
11 saying everything -- I forget the phrase. Basically,
12 everything was cool, you know. Everything was fine.
13 Thanks for resolving it, and I don't remember
14 specifically asking him to put anything like that in
15 writing.

16 Q Could you have, and you just don't
17 recall?

18 MR. KNUDSEN: Well, objection. That
19 calls for speculation.

20 MR. KODAM: I'm trying to find out if he
21 recalls -- he says he doesn't recall one way or
22 another. So I'm saying could it be the other way,
23 too?

24 THE WITNESS: I don't think so, and, just
25 to flush that out, I remember having meetings with

1 them individually -- a number of people. I mean, I
2 took this very seriously. Spent a lot of time
3 talking to folks trying to make sure I understood all
4 of the issues and figuring out a way to resolve it.

5 What I recall again -- and with Don, I
6 mean, I've met with him many times for various things
7 because, again, I basically like Don and he liked me,
8 I think. What I remember with my -- based on my
9 conversations with Don was hey. I'm all good.
10 Everything is fine.

11 As long as everybody else is fine about
12 this, then, yeah, I'm ready to move on. As long as
13 Pat and Ros and you and everybody's fine, then this
14 is over as far as I'm concerned, and so anyway that's
15 the gist of what I recall.

16 I don't remember asking him to send me
17 anything in writing one way or another, I guess.

18 BY MR. KODAM:

19 Q Did you say anything to the effect that
20 this was -- that you were going to handle the matter
21 yourself, and you believed it was an internal matter,
22 as it related to this complaint?

23 A No, I don't remember anything along those
24 lines.

25 Q Did Mr. Lake, in any of your

1 conversations about this complaint, raise his
2 concerns of being retaliated against?

3 A In the context of this complaint?

4 Q Correct. As a result of this complaint.

5 A As a result -- the answer is no. I would
6 say just knowing -- from reading this he says he's
7 worried about -- isn't it in here where he says --
8 let me read this.

9 Yeah. I mean, it's in the paragraph you
10 asked me to read a second ago "attempt to insure that
11 no retaliation" -- I mean, I don't remember Don using
12 the word "retaliation" with me verbally in a
13 conversation, and -- but, I mean, reading this, he
14 uses that word there.

15 So I guess he communicated to me in
16 writing in this document, but I don't recall that
17 being the gist of any of my conversations with him in
18 the aftermath of this, you know, of this memo.

19 Q In your conversations regarding this
20 complaint, did an issue come up about an
21 examination -- I believe it was Western Union. I'm
22 going from memory here right now -- where Rosalyn
23 felt that she was "completely terrorized," quote,
24 unquote, by Julio?

25 MR. KNUDSEN: Are you saying that in

1 these conversations the word "terrorized" came up, or
2 are you just trying to get a sense of that?

3 MR. KODAM: I'm just trying to get a
4 sense of that. I mean, if it was used I'd like to
5 know that term was used, but right now I'm just
6 getting a sense.

7 THE WITNESS: And this is in my
8 conversation with Ros after I found out about --

9 BY MR. KODAM:

10 Q Whether with Ros, Pat or Don --

11 A Yeah, I had no clue about it at all. I
12 didn't have -- I don't want to -- I just want to
13 understand your question.

14 So in the context of this complaint, and
15 as I was talking and meeting with folks afterwards --
16 and I think I described basically what I did. I
17 don't remember any particular exam.

18 So when you say Western Union that's not
19 ringing a bell, but I think the gist of what I
20 remember her telling me -- the word "terrorized" does
21 not come to mind at all, but I do think it would be
22 fair to say I had a sense that she was stressed and
23 worried and hurt and felt incompetent, but the
24 stress, too, was certainly an element of this. Her
25 feeling like I had responsibilities that I wasn't

1 meeting, and that would be very stressful for
2 someone, you know, and so -- but that's -- that's
3 what I recall from my conversations with Ros.

4 MR. KODAM: I'm going to hand you what
5 we'll mark as Exhibit 5, and the one I'm handing you
6 will be the court reporter's copy.

7 (Exhibit 5 was marked for identification.)

8 MR. KODAM: Once you've had a chance to
9 review that, let me know.

10 (Witness reviewing document.)

11 THE WITNESS: Okay.

12 BY MR. KODAM:

13 Q Have you seen this document before?

14 A No.

15 Q Have you ever said anything to the effect
16 of, "Julio's bark is worse than his bite"?

17 A I may have said that, yes.

18 Q What is that in reference to?

19 MR. KNUDSEN: You mean, when this witness
20 has used it, what did he mean by that?

21 MR. KODAM: Exactly.

22 THE WITNESS: Oh, I'm sorry. Can you
23 state -- because I was going to answer it
24 differently. Can you ask the question again?

25 MR. KODAM: Can you just reread the

1 question, please.

2 (Record read.)

3 MR. KNUDSEN: Objection. It's vague and
4 ambiguous, as phrased, because I suppose that could
5 have been said in reference to many things, and that
6 could be different than what the witness means when
7 he says that.

8 So, with that objection, the witness may
9 answer if he understands.

10 THE WITNESS: I think I understand. It's
11 in reference to, as I best remember it, a period of
12 time in 2004, 2005, around there. It was very
13 stressful. We had a lot of work. Julio is, by far,
14 the hardest-working FIM at DFI. I was the
15 hardest-working deputy at DFI.

16 And what I associate this with, by the
17 way, is Julio, in his office, literally had a blood
18 pressure monitor, and it became a joke. It was
19 actually a useful tool because sometimes we'd just
20 all go in there and it would relieve the, you know --
21 when something came up out of the blue and, you know,
22 wow, we would actually go in there as a joke -- and
23 okay. What's our blood pressure now, that kind of
24 thing.

25 So it became actually kind of a fun

1 little tool, and I remember telling that to some of
2 the new examiners in the context of -- Julio is a big
3 guy. I'm a big guy, and what it was in reference to
4 was just because there's this big, burly bear of a
5 guy walking around stressed doesn't mean that you
6 have to be stressed, you know. He looks upset. That
7 doesn't mean you have to be upset.

8 That was the context of it. It wasn't
9 in reference to him barking or being loud or shouting
10 or anything remotely like that, and I look at it now
11 and I think it's unfortunate phrasing. The idea
12 is -- I could just as easily have said, and perhaps I
13 said, you know, don't judge a book by its cover or
14 some other phrase or aphorism, if that's the right
15 term, but that would be the context.

16 And that would be the time period when
17 we were really going through a very, very stressful
18 time, and we had new examiners on board who were very
19 green and -- and "green," you know, I mean, again,
20 you know, just having -- I was worried about the
21 morale and the general stress level of the staff at
22 the time.

23 BY MR. KODAM:

24 Q And was this comment made to Don Lake as
25 well?

1 A See, I don't remember specifically saying
2 that to Don, but, having said that, it could have
3 been made in the presence of Don.

4 Q The blood pressure monitor in Julio's
5 office, is that his or did the department get it for
6 him?

7 A I don't know, but -- I actually don't
8 know. I don't think I ever asked. It was -- so I
9 don't know.

10 Q Would Julio check his blood pressure
11 throughout the day, if you know?

12 A No, and I can't -- I don't really
13 remember exactly how long he had it there, but I
14 think -- I mean, as I recall, you know, he went to
15 the doctor. The doctor said look -- and I actually
16 don't know if Julio took medicine or anything like
17 that, but I do know -- I remember talking to Tom,
18 Tom Fong, and he said, hey, you know, there's a blood
19 pressure monitor down there, which I thought, you
20 know -- I said what?

21 And then, you know, I do remember talking
22 to Julio and saying, "Is everything okay?" And he
23 said, "Oh, yeah, yeah." He said, "I'm just supposed
24 to check it every now and then," and then it just
25 became a prop from my point of view.

1 I wanted to be sure that Julio was all
2 right, and I think Julio was, and is, all right. I'm
3 not aware of any particular health issue. He's a big
4 guy. He's overweight, and he's got four kids, and,
5 as I said, I mean, separate and apart from all of
6 that, we were extraordinarily busy at that time.

7 Q What approximate date range are we
8 talking about that you were extraordinarily busy, as
9 you've described?

10 A Well, goodness, until -- the whole period
11 from, you know -- it started actually, from my
12 observation, before I even became the deputy in May
13 of 2003, spring of 2003, because I had observed it
14 easily for six months or a year beforehand.

15 In fact, I mean, just anecdotally, I
16 remember when I was approached by Carol and the
17 Commissioner, and I said, "Who would jump on that
18 grenade? There's a grenade in the corner. Who would
19 be silly enough to take this job?" I said, "Who's
20 going to jump on that grenade?" And that's clearly
21 because I recognized that there was a lot of work to
22 be done, and it was understaffed and how challenging
23 it would be to do this work.

24 Q So when you say "grenade," you're talking
25 about the Money Transmitter Division?

1 A Yeah, the grenade that was sitting
2 there. The metaphor of why would I sacrifice myself,
3 personally, for the greater good of DFI when, you
4 know, I could go up in flames in terms of the risk,
5 in terms of work load, and so on and so forth.

6 But I took the job, obviously, and my
7 point there is just that it was -- it was busy then,
8 and, I mean, it continued until -- even now in 2008,
9 we doubled in size. I'm sure you're going to ask me
10 about how we grew and all that stuff, but we
11 basically doubled in size from, you know, the fall of
12 2008 to the spring of 2009, which was great to have
13 all these new people, and I think we have enough
14 people, but all that meant was now we have all this
15 extra work in terms of training.

16 You can't just send folks who don't know
17 anything out into the field. We had still had
18 applications we had to process. We were trying to
19 get agents -- the whole program related to agent
20 examinations started.

21 I was rewriting legislation that's
22 currently pending, you know, and I think there's --
23 I'm basically busy -- for a civil servant who is
24 subject to furloughs and underpaid and haven't had a
25 pay raise, I'm a very, very busy guy.

1 Q You're not getting minimum wage?

2 A Well, not as far as I know. The more I'm
3 talking to you about this, I'm like what the hell
4 have I done with my career, but I'm saying that
5 facetiously -- I want to make clear on the record --
6 and the point is we've always been busy.

7 Q But would you consider yourself
8 currently, as you termed it, as extraordinarily busy
9 as you were back in this period when you were making
10 this statement about "bark worse than bite"?

11 MR. KNUDSEN: One second. Objection. It
12 sounds like you made a distinction there between
13 Mr. Venchiarutti being personally busy and the whole
14 team being busy. I think you're asking about the
15 latter.

16 MR. KODAM: And I'm actually asking
17 mainly about Julio Prada being busy so that his bark
18 was worse than his bite.

19 THE WITNESS: Yeah, and to answer that
20 question, I think that he was much more busy back
21 then. Before he had -- right now we have four
22 managers. So I can actually observe the difference,
23 and he is not -- it's not that you're not busy in the
24 sense that you come in to work and don't have work to
25 do every day.

1 It's the sense of being so busy and
2 realizing that you cannot -- you have no control.
3 There's a hundred things to do and maybe you can do
4 five of them, and the way I characterize it now, and
5 this is true for all of the managers, even for
6 myself, you have ten things to do and you can only do
7 five of them.

8 That's the way I would characterize our
9 lives as managers right now, but there was a period
10 of time where it was, you know, there was clearly not
11 just the volume of work but new laws and regulations,
12 you know, some failures of companies that were being
13 indicted and prosecuted for money laundering. So
14 company re-license was, you know, part of this
15 criminal conspiracy. That's not, you know, good.

16 It just seemed like we were in an era
17 where we didn't have the staff. There were a host of
18 new laws and regulations, and it was just one, you
19 know -- it just seemed like there was one emergency
20 after another after another after another.

21 Q During this period of extraordinary
22 business where you observed Julio Prada, in your
23 opinion, was -- did Julio Prada seem tense or
24 overwhelmed?

25 A You know, I, personally, wouldn't use the

1 words "tense" or "overwhelmed" but he was stressed.
2 Julio was definitely stressed, and some people
3 manifest -- I was stressed. Robert was stressed.
4 Jeanette was stressed.

5 I'm sure the staff -- like the new
6 examiners that came in were immediately thrown into a
7 very stressful environment, and that's the context of
8 this where I was talking to the examiners and I said
9 look everybody. I was referring to myself, too --
10 not with this statement but in general -- if Julio
11 and I and Robert and I seem upset to you because
12 we're literally, you know, what's going on -- it
13 became obvious to me that it was being absorbed by,
14 you know, the new examiners, you know, and even maybe
15 experienced examiners who were rotating in and didn't
16 know us, but -- so I think it's fair to say he was
17 highly stressed and, just to finish that point, some
18 people manifest it differently, and I might do things
19 differently than Julio or Robert or somebody else.

20 And the thing about Julio -- he's a big,
21 burly guy, and something someone told me, which is
22 why I told him this, is that when you're big and
23 burly and you're stressed people can sense it. They
24 just feel it. It's just something about being in a
25 relatively small room -- not this room but -- and

1 people sense it, and when you're a manager you need
2 to control that and -- or be aware of it, I guess.

3 Q How did, in your observation, Julio
4 manifest his stress at that time?

5 A It's hard to explain, you know. He would
6 look stressed. It would just be obvious that he
7 was -- I'm going to say the word yet again -- that he
8 was stressed out at times.

9 I mean, how do you manifest it? I don't
10 know that I can adequately describe it other than,
11 you know, it's like, you know, what's that line about
12 the definition of pornography? I don't know how to
13 define it, but I know it when I see it. Julio was --
14 you could just look at him and go, boy, that guy's
15 stressed out.

16 Q Did you ever notice him being curt with
17 his staff members as a result of this stress?

18 A No.

19 Q Did you ever see him be short tempered
20 because of this stress?

21 A No, not in the way that I understand
22 that. I've never seen Julio ever raise his voice or
23 act in an angry manner towards anybody in the
24 office. I've never observed that.

25 Q Now, based on your responses yesterday I

1 think I know the answer, but I'll ask.

2 Did you ever listen in on any of his
3 phone calls with any of his staff?

4 A I have but not without him knowing I was
5 on the call.

6 Q Okay.

7 A So I participated in calls that involved
8 me and him and staff people, and I do that routinely,
9 you know. It all depends on the subject matter and
10 who needs to be involved in the call.

11 Q Going back to Exhibit 1 that we talked
12 about, I kind of asked this, but I'm going to ask it
13 in a different way to make sure I cover it.

14 Did you ever say anything to Don Lake
15 that it would be in his best interests to withdraw
16 the letter and that, if he did, you would make sure
17 that the problems would be resolved that were listed
18 in the letter?

19 Anything to that effect?

20 A No.

21 Q Did you ever tell Don Lake that you felt
22 the allegations in there were unwarranted or
23 something to that effect?

24 A I don't think so. I mean, the context
25 that I recall -- all of my conversations with Don or

1 Ros was tell me what's going on. How are you? How
2 are you feeling? You know, I've -- remember, I dealt
3 with John Rockwell like a year before, and I was, you
4 know -- I was -- so that's why I was really
5 interested in making sure people felt good or were
6 happy. Why are you unhappy?

7 It wasn't about going through this memo
8 and, you know, what are the facts that support this.
9 That wasn't the approach at all.

10 So I don't recall having a conversation
11 along the line with anyone, well, you know, I know it
12 says this but I don't believe you, you know, or the
13 facts don't bear out what you're claiming here. That
14 just wasn't -- it just wasn't what we were talking
15 about.

16 Q Now, did you ever hear from anyone, and
17 when I say "anyone" I'm referring to staff members at
18 DFI, something to the effect of stay away from Julio
19 if his blood pressure is high?

20 A Did I ever say that?

21 Q No. Did you hear it from any staff
22 members?

23 A No. No. Nothing along those lines.

24 Q I know the answer to this, but I'll just
25 ask. Did you ever say anything like that?

1 MR. KNUDSEN: You mean, tell other
2 people?

3 MR. KODAM: Exactly.

4 THE WITNESS: Stay away if his blood
5 pressure is high?

6 BY MR. KODAM:

7 Q Or leave Julio alone when his blood
8 pressure is high or something along that line?

9 A No, I don't recall saying anything like
10 that.

11 Q All right. Staff members at DFI have the
12 option to educate themselves as it relates to their
13 position, do they not?

14 A Yes.

15 Q What are the procedures and parameters
16 for that?

17 A Well, I mean, it all depends on, you
18 know, what the position is, who you are, what
19 experience you have and, you know, so on and so
20 forth. I mean it all depends, but certainly it's
21 very clearly important for us in our organization --
22 because you can't hire someone off the street who
23 really has the skill sets that you need to do this
24 job effectively, but if you want me to talk
25 specifically about -- maybe just ask me -- what are

1 you looking for, I guess?

2 Q Well, what I'm looking for is, well,
3 several things, but let's start with: Does the
4 manager come out and say, hey, I think this would be
5 good for you, or does the employee come out and say
6 hey. Could I do this, or does it come up in the
7 IDP? How does this all come about?

8 A The answer is all of the above and just
9 in terms of what I know in our Money Transmitter
10 Division -- and this has evolved, by the way, over
11 time because until recently there was no such thing
12 as a money transmitter examiner school. It just
13 didn't exist. I, personally, helped create it
14 because it's something that needs to happen in the
15 industry -- not just in California, but we work with
16 fifty or forty some odd other State regulators in the
17 country.

18 But when you come in, whether it's credit
19 unions, banks or money transmitters, we generally
20 have -- here's the sort of -- the word for it escapes
21 me. We have a word but -- here's the path that we
22 want all of our examiners to take in terms of
23 credentialing and basic skill sets.

24 In fact, we're in the process right now
25 of moving from credentials to skill sets, but that's

1 an overall DFI project that I've been asked to
2 review, but getting back to what's currently in place
3 is you want folks to be on a path to get certain
4 credentials and not just so that they can get skill
5 sets, but also we feel that credentialing examiners
6 is a way of enhancing the sense of professionalism.

7 For years now we've been trying to use
8 this -- hey this person has a credential. These
9 staff people have credentials -- as a basis for
10 getting better pay for our folks through the Civil
11 Service system. Unfortunately, that hasn't been
12 working, but I think it will once the budgetary
13 crisis we're in changes.

14 So it's a combination of professionalism,
15 training, pay. So it's very important for us in our
16 department to have these training programs, and so if
17 you come in we, basically, set you on a course to
18 achieve this, and the part where -- you know, the
19 manager would talk to an examiner and say look.
20 You've been here for three years. Why is it that you
21 don't have your certified credential? Let's start
22 working -- because usually you have a sense of how
23 long it might take to achieve these things.

24 I'm just throwing that out as an example,
25 and, conversely, we tell this to examiners. You need

1 to fend for yourself in the sense of -- "fend for
2 yourself" isn't the right word. Be aware of this as
3 a professional. This is what we want you to do.
4 This is what you should be trying to achieve. So if
5 you don't feel you're getting trained, come and ask
6 us to make sure that we make this a priority for
7 you.

8 So it's definitely give and take.

9 There's clearly a pathway of what training we expect
10 you to have, but there's also -- the other thing is a
11 lot of people -- just to finish this thought here.
12 You don't have control over the classes, you know.
13 So it's not like okay. All of this is in-house
14 training.

15 You have to rely on vendors and other
16 organizations to provide it, and then there's
17 competition in the sense of limited spots and so,
18 depending on people's schedules, there may be a class
19 that you can go to that's available, but you can't go
20 because there are ten other people in line ahead of
21 you, or it may be that there's a conflict in terms of
22 some work that you have to do that's really, really a
23 high priority.

24 This is just sort of moving pieces.
25 Here's a path, but it's not lock step in the sense

1 that you always know exactly when and how everyone's
2 going to achieve or take the classes that are needed
3 to get these various credentials.

4 Q What credentials do you have, if any?

5 A I don't have any examination credentials.

6 Q Does Julio Prada, as far as you know,
7 have any?

8 A Yeah, I believe he pretty much has any
9 and all of them, and I say that only because he came
10 up through the Banking Department, and he'd been in
11 banking, I think, for eighteen years, and basically
12 if you've been in banking for eighteen years or
13 anywhere in DFI for eighteen years you will have -- I
14 think it's certified ops credit, EIC. Those are the
15 basics. Then there's a thing called the senior
16 school. So you get a credential for that.

17 And these credentials aren't given by
18 us. They're given by another organization, and
19 actually a couple of other organizations, but I think
20 Julio is also certified in trusts. I know he's got a
21 CAMS certification, which is Certified Anti-Money
22 Laundering Specialist.

23 He may have some other things that aren't
24 coming to mind, but the difference between him and me
25 is I came in as a lawyer and went right to, I guess,

1 upper management, and whereas he came up on the
2 technical side, on the examination side. So that
3 would explain, you know -- that's why I don't really
4 have any of the quote, unquote "exam credentials."

5 MR. KODAM: Why don't we take a
6 few-minute break.

7 MR. KNUDSEN: Sure.

8 (Recess.)

9 BY MR. KODAM:

10 Q We were talking about education and all
11 that. Just to confirm, the department pays for
12 people's education as it relates to work; is that
13 correct?

14 A Yes.

15 Q Okay. What is the procedure for someone
16 to enter a class in terms of they find a class. Is
17 there a form they fill out for approval?

18 What is the procedure?

19 A I'm not that well-versed in this because
20 this just isn't part of what I do. In terms of the
21 scheduling of classes, getting approvals, there's
22 travel, and that's just not -- I'm just not involved
23 in that.

24 Q Who is?

25 A It depends on when we're talking about

1 this. So there was a period of time -- what I can
2 tell you is there was a period of time there was a
3 training officer, and that was actually an examiner,
4 bank examiner actually, I think, and then that
5 training officer went to a person who was in HR. I
6 think her name was Cindy, Cindy Fernandez, but I
7 could be wrong about that.

8 Then it went to a fellow named
9 Carl Yeager, but there was also a training committee,
10 and then now, you know, we are reorganizing in the
11 sense that right now there's a training committee at
12 DFI. One of my managers is on it as well as a couple
13 of managers from Banking and Credit Unions.

14 And they're generally tasked with here
15 are all of the classes we know about, that we've
16 heard about, and that fall within the pathways that
17 I've described -- because it's different for credit
18 unions. Banking and transmitters are more similar
19 because there isn't as much formal -- in fact,
20 there's really no credential right now for money
21 transmitter certifications.

22 Again, I'm working to create one of those
23 with an organization, but I'm -- so we borrow and we
24 send people to banking classes because I just don't
25 want our examiners to be disadvantaged relative to

1 their peers in the organization, and also I think
2 that training is useful. If you learn how to read
3 the balance sheet of a bank, you should know how to
4 read the balance sheet of a money transmitter -- is
5 basically, you know, our approach to it.

6 So in terms of the process, it would have
7 varied depending on how it was organized, but
8 basically as we, DFI, become aware of classes, we
9 communicate it out to folks. You get a sense of who
10 needs it, who wants it, who's available.

11 Decisions are made about, well, whose
12 turn -- who gets to go and what is our budget. Is it
13 out of state. Is it in state, that sort of thing,
14 and then people go, and, I mean, that's the basic
15 process.

16 Q So you don't have to sign off or give any
17 sort of approvals on this?

18 A You know, I may, but once someone, you
19 know -- it's determined someone is going, as part of
20 the whole -- and this is the part I'm not very, you
21 know -- there's a lot of HR form stuff. It's not a
22 strength of mine.

23 I mean, honestly I tell my folks give me
24 something I'll sign it. You need it I'll sign it,
25 and this is one of those forms. It's like, you

1 know -- and everyone signs it and it goes to HR. I
2 think it's more to demonstrate that there's a record,
3 and usually there's expenses related to training in
4 terms of travel, or maybe it comes out of a different
5 part of the budget.

6 I don't know, but generally speaking I
7 probably do sign a lot of these, but it's -- as far
8 as I'm concerned it's pro forma because it's already
9 been resolved by everybody, you know, and so anyway
10 that's the end of that answer.

11 Q Let me switch gears a second.

12 How are IDPs done? And what I mean by
13 that, so it's a little clearer, is what is the
14 process for administering someone's IDP? Does the
15 supervisor start it out? Is there something the
16 employee fills out?

17 How is it done at DFI?

18 A I wish there was a straightforward answer
19 to that, but here's the basic idea, and this is a
20 policy choice that's come out of HR that has varied
21 over time. From my point of view how it starts is
22 like -- because I do this, you know, with my folks,
23 and then right now in the next month or two I'm going
24 to do this with the Commissioner, but it's,
25 generally -- you get an email from HR that says it's

1 time to do the IDP for this person.

2 And it goes out to you and to that
3 person, and the reason this is -- because it was at
4 one point the person's start date. Then at another
5 point it was like their birthday or something, and
6 now we're moving to everyone whose birthday is in the
7 same month or something -- because at the last
8 executive committee I said hey. When are we going to
9 do IDPs because it feels like, to me, like it's been
10 a year and a half since I've given anybody an IDP.

11 So it's driven by HR in terms of the
12 timing. I don't just say hey, you know, to
13 Rick Posey, one of the managers, I want to do the IDP
14 right now. Let's get this -- you know, and I'm
15 certain that's true throughout the organization in
16 terms of anyone who has a direct report.

17 So once the timing of it is, you know,
18 because again -- you get this email. Basically, you
19 know, it's a form. It gets filled out by the direct
20 report, signed, sent to the manager who reviews it.
21 I think they fill -- it's been so long since I've
22 done one of these.

23 I wish -- if one of these was in front of
24 me it would definitely trigger what I need to do, you
25 know, but I think what happens is the manager either

1 agrees or disagrees and does their own, and then you
2 discuss it with the person whom you're evaluating,
3 and there's -- you come to some agreement, I think.
4 At least that's how I've done it, and you both sign
5 it and then it goes to HR, and the point of that is
6 just to make sure that there's actually a
7 conversation and meeting and real discussion, you
8 know.

9 I think it's a useful process for folks,
10 a real discussion about goals and what you want to do
11 and how you can improve and -- but it occurs to me,
12 as I'm telling you this, that I might have forgotten
13 some of the real process involved here.

14 So, for example, I don't know if it's
15 simultaneous -- I'm trying to remember if it's
16 simultaneous. Does one go before the other? I'm a
17 little confused how that might work.

18 Q So HR triggers the process. Back in
19 2007-2008, for someone like Don Lake, who would
20 prepare the IDP?

21 A In 2007-2008?

22 Q Yes.

23 A I think both Don and Julio would have, in
24 the process, made an evaluation. I'm thinking from
25 memory, but there's sort of, you know -- it's like

1 set columns and, you know, describes some things on
2 the far left, and it's like meets expectations,
3 satisfactory or needs improvement are the kind of
4 things.

5 And again, as I think of the process, I
6 think it comes from -- either simultaneously the
7 employee and the manager fill it out, or the employee
8 does it first and it goes to the manager and the
9 manager does it, you know.

10 And I think the idea is you need to come
11 to some agreement before it goes to HR, and there
12 might even be a dispute process if you can't come to
13 an agreement, but, you know, my understanding may not
14 be technically right, and so, you know -- but that's
15 my -- what I recall about the process.

16 Q Do you review the IDP before it's given
17 to the employee?

18 A No.

19 Q Do you comment on them ever?

20 A No. I don't even know when IDPs are
21 going out. It's a process between the employee and
22 their direct, you know, the direct report and whoever
23 they report to.

24 Q Have you ever had discussions with
25 Julio Prada with regard to Don Lake's IDP?

1 A Not that I recall. I don't recall
2 anything in particular about it.

3 Q Have you ever had a discussion with
4 Don Lake about his IDPs that were administered?

5 A Not that I recall.

6 Q Did you ever look at Don Lake's IDPs?

7 A I don't think I really have. I mean,
8 I've got to tell you, I'm thinking -- I think I
9 mentioned I read Don Lake's deposition transcript,
10 and it may have been one of the exhibits, but I don't
11 think I actually got to leafing through the
12 exhibits. So I don't recall reading it ever.

13 Q So even when Don Lake was recommended to
14 be transferred to Money Transmitters, you didn't go
15 look in his personnel file and look at his IDPs from
16 the past?

17 A No, I didn't, and even if I did it would
18 be, at best, a mixed bag whether there was any
19 meaningful information in there at all.

20 MR. KODAM: I'm going to hand you a stack
21 of IDPs that we'll mark as Exhibit 6. I'm sure I
22 know the answer to this, but if you'd take a few
23 minutes and review that.

24 (Exhibit 6 was marked for identification.)

25 MR. KNUDSEN: Daniel, are you going to

1 ask the witness about all these IDPs or just some of
2 them, in terms of what he should be looking at?

3 MR. KODAM: He has said that he's never
4 looked at any of Don's IDPs. So I'm going to ask him
5 just review it to see if it refreshes his memory at
6 all, and if he doesn't recall there's not much to
7 ask.

8 MR. KNUDSEN: Fair enough. Okay.

9 MR. KODAM: Otherwise, I'd separate them
10 into years and have them as separate exhibits, but I
11 don't want to waste time if that's the end result.

12 MR. KNUDSEN: Okay. For the record,
13 these -- I'll note that the witness testified he did
14 not recall seeing IDPs, but for the record these
15 appear to be a series of IDPs from 1991 to 2003 for
16 Mr. Lake. There isn't 12 IDPs. There's somewhat
17 less than that. None of them appear to be signed by
18 this witness.

19 So I'd just ask, Bob, please review
20 these, but in light of what Daniel said he probably
21 won't be asking you specific questions. So just
22 review them to see if you've ever seen them before.

23 MR. KODAM: We'll go off the record for a
24 minute.

25 (Witness reviewing document.)

1 THE WITNESS: No, I've never --

2 MR. KNUDSEN: We're off the record.

3 BY MR. KODAM:

4 Q Back on the record.

5 Have you ever seen any of those IDPs that
6 are marked as Exhibit 6?

7 A No.

8 MR. KODAM: Okay. I'm going to hand what
9 you I'm going to mark as Exhibit 7. If you can take
10 a few minutes to review it.

11 (Exhibit 7 was marked for identification.)

12 (Witness reviewing document.)

13 THE WITNESS: I'm ready.

14 MR. KNUDSEN: Daniel, are you going to
15 ask specific questions here? I'll note from earlier
16 testimony this witness said he wasn't incredibly
17 versed on the procedures, and it seems like if you're
18 going to ask specific questions he should read it
19 carefully, but that could take some time, and I don't
20 want to waste your time. On the other hand, if
21 you're going to ask general questions --

22 MR. KODAM: I think he should read it.

23 THE WITNESS: I'd like to go off the
24 record and speak with you then.

25 MR. KNUDSEN: Okay. Sure.

1 (Recess.)

2 BY MR. KODAM:

3 Q Back on the record.

4 Have you had a chance to review the
5 document that is Exhibit 7?

6 A Yes.

7 Q Okay. Have you ever seen this document
8 before?

9 A Yes.

10 Q Okay. And did you see it around the time
11 that it's dated on the first page, July 2nd, 2003?

12 A Possibly. I don't know.

13 Q Okay. Who did you receive this from, if
14 you recall?

15 A I don't recall.

16 Q Do you recall if this document was passed
17 out to other members within your department?

18 A I don't. I assume it was, but I have no
19 idea if it ever -- you know, how it was distributed
20 or who got it and so on.

21 Q Did you ever discuss this document with
22 Robbin Kleinsorge?

23 A This document with her? No.

24 Q Did you ever discuss this document with
25 any of the management staff?

1 A No.

2 Q Did you go over this document with any
3 staff members from the time this was drafted till
4 present?

5 A I've never discussed the subject matter
6 of overtime and travel with anyone other than a
7 manager or someone from HR who was, depending on the
8 period, someone who you talked to about any of these
9 issues.

10 Q And when you've had these discussions,
11 have you ever asked them to look at this memorandum?

12 A No. I generally am not involved with
13 anything that relates to travel, and if it comes up
14 to where -- the only time this comes up to me is when
15 I feel like my managers are so confused and
16 frustrated that they don't -- and it's clear that
17 they don't understand or feel like they don't
18 understand the rules, and that's when I may get
19 involved and pick up the phone, and I may have talked
20 to Robbin.

21 Now I would talk to Veronica directly
22 about any issue to say, hey, look. We're confused.
23 What are the rules? This is the situation. Give us
24 some guidance. That would always be the context.
25 I've never in my life taken this particular document

1 and sat down with anybody and gone over, point by
2 point, what it says and how it applies.

3 Q Was there ever any training with regard
4 to what's listed in this document?

5 Did Robbin ever say we're all going to
6 have a staff meeting to go over this?

7 A Not that I know of. Not by Robbin.
8 There's one time I remember when Veronica first came
9 on board, and I don't recall when she was -- maybe --
10 I'm taking a stab at like 2007 maybe or something
11 like that. Maybe it was earlier. No. It wouldn't
12 have been.

13 Anyway, sometime in the last few years I
14 do remember Veronica coming out to the San Francisco
15 office and, with a PowerPoint, saying that these are
16 the travel rules, and so the staff -- not just Money
17 Transmitters, but staff in the San Francisco
18 office -- I remember they were in the conference
19 room, and they went over the travel rules. That's
20 the only type of training I ever specifically recall.

21 MR. KODAM: I'm going to hand you an
22 11-page document we'll mark as Exhibit 8. It says
23 "Policy Number 1380, Version 2.0" on the top. If
24 you'd hand that to Counsel.

25 (Exhibit 8 was marked for identification.)

1 THE WITNESS: This is an 11-page,
2 single-space document. Do you want me to read
3 through this or --

4 MR. KNUDSEN: I would say read through it
5 enough that -- I mean, we have to assume that Daniel
6 wants to ask you some questions about it.

7 THE WITNESS: Okay.

8 MR. KNUDSEN: So I think read through it
9 enough to make sure that you're familiar with it.

10 THE WITNESS: Okay.

11 MR. KNUDSEN: So I wouldn't just glance
12 through it. I would take the time to read it.

13 (Witness reviewing document.)

14 THE WITNESS: Okay.

15 BY MR. KODAM:

16 Q Have you seen this document before?

17 A Yes.

18 Q What is your understanding of your
19 responsibilities as a manager as it relates to EEO
20 policy?

21 MR. KNUDSEN: You mean, this policy we're
22 looking at or in general?

23 MR. KODAM: In general is what I'm asking
24 right now.

25 THE WITNESS: My understanding is that

1 any time there's anything that even remotely
2 approaches a complaint about discrimination,
3 harassment -- I think the other day you showed me the
4 workplace violence prevention policy -- violence
5 prevention, anything that could even remotely touch
6 upon this subject, to talk to the employee, encourage
7 them in the sense of here are your rights.

8 Are you familiar with, you know --
9 because when these came out there was actually,
10 obviously, a procedure, and there's forms, you know.
11 I'm not an expert in all of the various procedures.

12 From my point of view, I -- as soon as I
13 hear anything that even remotely comes close to
14 touching on any of these policies, I get on the phone
15 with the Chief Administrative Officer or now with
16 Veronica because she's very, very highly competent,
17 but there did not used to be, before Veronica,
18 someone as good as she.

19 So I would get on the phone with
20 Veronica now if this came up, and in the past it
21 would be Jim Dong (phonetic) or John Connell, and if
22 I couldn't reach him I probably would have talked to
23 Carol, Carol Chesbrough.

24 BY MR. KODAM:

25 Q In your discussions with Don Lake during

1 the time you've known him, have you ever been in a
2 discussion where he's raised discrimination or
3 harassment to you -- outside of the written document
4 but come to you and said hey. I feel like I'm being
5 discriminated against, or, hey, I'm being harassed
6 based on some EEO classification?

7 A No, never have I had a conversation like
8 that with Don.

9 Q How about with any other member of your
10 staff as it related to Julio Prada?

11 MR. KNUDSEN: I'll object to the extent
12 that that seeks information outside the scope of
13 discovery. It's particularly irrelevant if it
14 involved a different type of claim, such as a sexual
15 harassment or sexual discrimination.

16 The witness may, however, respond.

17 THE WITNESS: I think I testified already
18 as to all the -- there was the John Rockwell issue.
19 There was the Kerou Li issue. In the context of the
20 Kerou Li issue, I heard about an interaction between
21 two of the staff people.

22 So I independently reported that just to
23 be sure that, you know, everything I thought of that
24 may even remotely or potentially fall within
25 discrimination, you know, workplace violence, sexual

1 harassment -- I'm sorry. I'm not an expert on these
2 things, but whatever it is I bring it to the
3 attention of the folks in HR.

4 MR. KNUDSEN: Bob, other than what you
5 might have already testified to in this deposition,
6 was there ever any time when anyone complained of
7 race, age, discrimination or harassment or any type
8 of retaliation against Julio Prada in a conversation
9 with yourself?

10 THE WITNESS: No.

11 MR. KODAM: Thank you, Counsel.

12 BY MR. KODAM:

13 Q Have you ever discouraged anyone, ever,
14 from filing an EEO complaint?

15 A No.

16 MR. KODAM: All right. I'm going to hand
17 you what's titled "Audio Transcription of Robert
18 Venchiarutti," dated April 8, 2008, DFI Bates stamp
19 900 to 929. I'll hand that to you and if you could
20 read that, please.

21 (Exhibit 9 was marked for identification.)

22 (Witness reviewing document.)

23 MR. KODAM: Just to clarify for the
24 record, Exhibit 8 is the 11-page EEOC Policy Number
25 1360. Exhibit 9 is the Robert Venchiarutti audio

1 transcription dated April 8, 2008, starting with DFI
2 Bates stamp 900 and going to 964, I believe.

3 THE WITNESS: 929?

4 MR. KODAM: 929. I apologize.

5 Off the record.

6 (Recess.)

7 BY MR. KODAM:

8 Q Back on the record.

9 I don't know if I asked this because I
10 don't remember where we stopped, but have you had a
11 chance to review Exhibit 9?

12 A Yes.

13 Q Okay. If you can turn to Page 7 in
14 Exhibit 9, using the page numbers on the lower
15 right-hand corner.

16 A Uh-huh.

17 Q Actually, let me stop there. You said
18 you had a chance to review this recently; is that
19 correct?

20 A That's right.

21 Q In your review of this, were there any
22 changes or modifications to this or anything that you
23 felt that you should have added to any of the
24 answers?

25 MR. KNUDSEN: Well, objection. Vague and

1 ambiguous. It's almost impossible to answer in light
2 of the context this witness got it. It wasn't given
3 to him as a deposition transcript, you know, that he
4 would be able to make changes on.

5 The witness may answer, however.

6 THE WITNESS: No. The answer I would
7 give is there was nothing in here that surprised me.
8 It reminded me of things that honestly I've long
9 forgotten about, but having read it there was nothing
10 that sticks out as, boy, I wish I hadn't said that,
11 or I wish I had said something like that.

12 So, you know, nothing sticks out.

13 BY MR. KODAM:

14 Q Okay. On Page 9 -- actually, let me
15 start back with Page 7. They ask you about direct
16 assignments coming from Julio Prada, and you mention
17 that you don't interact with Don Lake that much
18 recently.

19 Is that still the case?

20 MR. KNUDSEN: You mean, currently right
21 this second?

22 MR. KODAM: Yes, because this is a
23 little -- 27 months old, about.

24 MR. KNUDSEN: Okay. And then do you mean
25 before the period where Don Lake transferred to the

1 Banking Division, or are you saying -- well, because
2 remember Don Lake's testimony? He said he's now
3 working for the Banking Division in San Diego. So
4 that he's now under a different --

5 MR. KODAM: Oh, I thought you were
6 misspeaking and were referring to the transfer to the
7 Money Transmitter Division.

8 BY MR. KODAM:

9 Q Let me rephrase the question.

10 Back in April 2008, you mentioned that
11 you haven't had much interaction with Don Lake in the
12 last year and a half, two years now.

13 Is that an accurate reflection of what
14 you said?

15 A Yes.

16 Q Okay. From April 2008 to present, have
17 you had much interaction with Don Lake as far as
18 giving him direct assignments?

19 A As far as giving him direct assignments?
20 It depends on the period. So the last -- what are we
21 in, July? This year, basically, he's been working
22 for the Banking Division.

23 Q Okay. Prior to that?

24 A So from 2 -- so when was this? You're
25 saying from April 2008 to, I guess, the end of 2009?

1 There wasn't much in the way at all of direct
2 assignments from me. Certainly not, and somewhere as
3 we were hiring new people and reorganizing our
4 staff -- I'm thinking it must have been around March
5 of 2009, something like that, we reorganized the
6 staff. We have new crews, new direct reports, new
7 managers -- the whole nine yards. We've more than
8 doubled in size in terms of the examination
9 function.

10 Don -- I wanted Don, and I assigned Don
11 to do primarily application work, and application
12 work is something I am directly involved in and the
13 Commissioner ultimately is directly involved in.
14 It's high-level, analytical, important work, and so
15 for that period there were, you know, assignments --
16 so I made the decision I wanted him to do that,
17 Number 1, and then, Number 2, it depends on the
18 assignment. It depends on the issue.

19 Some -- I'm sorry. Application, not
20 assignment. It depends on the application, the
21 issues that might be raised by the particular
22 applicant. Some are really easy. They're,
23 basically, slam dunks, and they would just go
24 through.

25 Easy in the sense they don't raise any

1 issues that I need to be involved in. There's still
2 work that needs to be done. There's still analytical
3 work. Some of them were difficult in the sense
4 there's challenging issues because they're a
5 start-up, or they're funded by venture capital.

6 So you have to analyze who the control
7 people are in the organization, the venture funds,
8 and who's the limited partner and so on and so forth
9 or because of the product that they're offering
10 that's unique, some sort of stored -- I don't know if
11 you're familiar with what stored value is.

12 That's cutting edge stuff that we're
13 involved in, and the law is changing and evolving,
14 and so there's some things that need to be brought to
15 my attention, and so I can remember on a handful of
16 occasions talking with Don about specific issues and
17 specific applications, but that was the extent of my
18 interaction with him, you know.

19 I didn't see him. He didn't have reason
20 to travel up here. I think I was in San Diego once
21 during that time, you know, and even to this day I'm
22 still basically friendly with the guy, and so -- in
23 fact, I remember we sat next to each other on a -- at
24 lunch. There was a group lunch, and I sat next to
25 Don.

1 So we're friendly with each other, but
2 that's the interaction that I've had with him during
3 that period of time.

4 Q With the application assignment, when did
5 you give that to him?

6 A It was around March.

7 Q Of '09?

8 A I think so. March of '09, yeah. It may
9 have been February. I think by March it certainly
10 would have been in place, though.

11 Q And how long was this assignment?

12 Was it a day? A month?

13 A No. The idea -- I remember having a
14 phone call conversation with Don. I think it was Don
15 and Oscar because Oscar was his -- who he reports to
16 organizationally now -- or at the time. I guess even
17 now technically, but -- I'm sorry. I completely lost
18 my train of thought. Can you reread --

19 MR. KNUDSEN: You had a phone call
20 conversation with him and Oscar, and this is about
21 the assignment for applications.

22 THE WITNESS: What was the question?
23 Just so I understand it.

24 MR. KODAM: Can you repeat the question.

25 (Record read.)

1 THE WITNESS: Thank you. You know, I
2 wasn't sure how long it was going to be. I think
3 what I told him originally was for the next year but
4 that I also had other projects that I wanted him to
5 do.

6 So, for example, we are doing agents --
7 we developed an agent's work program. I wanted our
8 examiners to start going out in the field and
9 actually going to these little locations.
10 "Little" may be -- Walmart is an agent. A 7/11 is an
11 agent. Safeway is an agent.

12 So it wasn't always small -- but to
13 actually go out to these locations and visit them,
14 which is something we'd never had the staff to do. I
15 wanted Don to be involved in that. I wanted him to
16 also develop an IT exam program. He -- and I don't
17 know.

18 I'm trying to think why I think this is
19 true, but Don has always been -- and I have the
20 impression that Don had a lot of IT training and
21 that, when he did bank exams, that was something he
22 was very interested in.

23 BY MR. KODAM:

24 Q "IT?" You're talking about computers,
25 right?

1 A Yeah. Yeah. So I felt that was a need
2 we had, and Don seemed like a good resource to start
3 working on that which, frankly, would have
4 involved -- frankly, we talked at length about how
5 are we going to -- how should we approach this
6 project. Where can we get information.

7 I didn't want him to reinvent the wheel
8 because Banking has one. Credit Unions has one.
9 There's FFIEC guidance on this. That's the -- what
10 does it stand for. Financial -- FFIEC is kind of a
11 body that will give guidance on a variety of issues
12 that relate to financial institutions and exams, and
13 it's not necessarily just for banks, but there's
14 guidance out there.

15 I remember telling him -- giving him
16 information about who he should talk to. The timing
17 of that was probably more like June, you know. It
18 wouldn't have been the first thing I asked him to get
19 working on. June, July.

20 So it wasn't just applications. It may
21 have been just applications for the first few months,
22 because probably we had a whole lot of them that
23 needed to get done is my guess, but as those
24 applications, you know, worked their way through, and
25 there weren't new ones coming in, it would have been

1 time for Don to start working on these other
2 projects.

3 Q At the time when you gave this assignment
4 to Don, what was the structure of the Money
5 Transmitter Division?

6 A This would have been after we had hired
7 all the folks, all the new people, including the new
8 managers. So there would have been me and four
9 managers beneath me, basically.

10 Q And who were those managers?

11 A Excuse me. Julio Prada, Rick Posey,
12 Oscar Lumen and Shahiv Salhejee, which is S-h-a-h-i-v
13 S-a-l-h-e-j-e-e.

14 Q And what were their titles?

15 A All of them would have been FIMs except
16 for Rick Posey, who was a FIS at that time.

17 Q Who is -- who's below them?

18 A Basically --

19 Q Who were -- sorry. I apologize for
20 interrupting, but let's start with who was below
21 Julio at that time?

22 A Below Julio we would have had, I think,
23 Rowena Lumen and Omar Shaheed (phonetic).

24 Q And were they both examiners?

25 A They're both seniors, SFIEs.

1 Q And then who was under Rick Posey?

2 A A lot of people. Basically, everybody in
3 the San Francisco office, all of the examiners in the
4 San Francisco office, with the exception of
5 Jennie Wong and one other person whose name is
6 escaping me.

7 Q How many San Francisco examiners were
8 there?

9 A By "examiners," you're talking about FIEs
10 and SFIEs? At least that's what I refer to as
11 examiners.

12 Q Well, you said Rick Posey and all the
13 S.F. examiners except Jennie Wong and one other
14 person?

15 A Jennie Wong is an SFIE, which is why I
16 would have had her reporting to Oscar, and there was
17 one other SFIE, and I'm just drawing a blank right
18 now, who would have reported to Oscar.

19 I just remember Oscar and Julio had the
20 same number of direct reports, two. Oh, it must have
21 been Don Lake. I'm sorry. And he wasn't in
22 San Francisco. So there it is. That's why I'm
23 confused. So Don Lake reported to Oscar.
24 Jennie Wong reported to Oscar.

25 Jennie was in San Francisco, and,

1 obviously, Don wasn't, and then the rest of the
2 San Francisco examiners reported to Rick Posey, and I
3 think there were nine.

4 Q Do you know their names?

5 A I'll give you my best effort.

6 Frances Leon, Roman -- I call him Roman,
7 but his name is Preet Roman, and I couldn't even
8 begin to pronounce or spell his last name. He's one
9 of the new people -- and I'm just going by cubicle
10 now.

11 So Romulus Matias, Mariano Cansicio,
12 Lisa Huang, Edmond Wong, Yolanda Torres,
13 Duval Ghandi, Sandy Ho, and I'm not sure how many I
14 just named off because I haven't been writing it down
15 but --

16 Q Eight.

17 A Eight? Anyway I thought it was nine.
18 Maybe it's eight.

19 Q Maybe I miscounted.

20 You're right. It is nine.

21 A Oh.

22 Q I put Roman and Romulus -- I counted them
23 as one the first time. Then we did Oscar and then
24 Shahiv?

25 A That entire crew down there is new, and

1 I've not had a chance to track them as much. So I
2 think there's six people there, maybe seven, and
3 their names I -- I'm embarrassed to say that I don't
4 think I can recite their names because unlike the
5 San Francisco people, who I see on a regular basis, I
6 don't see these folks on a regular basis.

7 Q Where are they located?

8 A Los Angeles. They're all in the Los
9 Angeles office. Shahiv's in L.A. So is all of his
10 crew.

11 Q Are these FIEs?

12 A They are all FIEs, yes.

13 Q Okay.

14 A I can give you all of the first names, if
15 that would be helpful.

16 Q It's a start.

17 A Well, Steve, Bruce -- goodness. It might
18 come back to me. I'm, frankly, personally
19 embarrassed that I don't remember their names since
20 I've met them and know them, but the names are just
21 not coming to me right now.

22 Q If you think of them as we go through
23 this just let me know --

24 A Okay.

25 Q -- and we'll just add to it. All right.

1 Now, prior to this application
2 assignment, who was handling the applications?

3 A Well, let me back up. The manager for
4 applications has always been Julio Prada. So what I
5 did with Don was he was designated as the resource
6 that would be the person who would process the
7 applications, and I think -- I'm sorry. I think we
8 talked about it yesterday. Maybe we didn't.

9 In the context of exams I think I talked
10 about how the work flow would be. So Julio would be
11 the manager, but we'd find an examiner who would
12 function much like the EIC, would be the way to think
13 about it, and so in terms of who was assigned
14 applications it could be any of our more experienced
15 people. People who were good writers. People who I
16 had confidence in.

17 I pretty much have always been involved
18 in discussions with Julio about, okay, who should be
19 assigned applications. I'm not aware of any time an
20 application's been assigned where I wasn't involved,
21 or at least consulted with, to make sure that I was
22 okay with the actual examiner assigned the
23 application.

24 Q I lost a few things here. So I'm going
25 to -- I need to get some clarity. You said Julio has

1 always been the manager for applications.

2 So why did it end up that you assigned
3 this to Don Lake?

4 A It was my decision to organize it the way
5 I did. I counseled with my managers to get their
6 input, but ultimately it's my decision about who was
7 going to be assigned to whom in terms of the
8 reporting structure, what their duties are going to
9 be, what functional roles I want folks to play.

10 Again, it's in consultation with people,
11 but, I mean, I take responsibility and make the
12 ultimate decision about these things, and I made the
13 decision that Don was a resource we needed to
14 functionally be devoted to this work flow that we
15 have, and so that the other people who might be --
16 might in the past have been assigned to applications
17 would be devoted to the field work and particularly
18 to training all of these new examiners that we have.

19 So it was my judgment about what the
20 right balance was to meet our goals as an
21 organization, and it becomes -- so even now, for
22 example, I think I mentioned yesterday that, again, a
23 year later, we have people. They have different
24 levels of training, and I want to reorganize again.

25 And I'm openly -- I think in the next few

1 months I'm going to assign two people now full time
2 to do applications and some of the other analytical
3 work that I think we need to have done in the office
4 because it's just my judgment that we need people
5 that we know they're going to be available to do this
6 work.

7 This is sort of the capacity that we
8 need, rather than in the old days when we didn't have
9 enough people. They were always out in the field
10 doing some other work, and you never knew necessarily
11 who was available to give an assignment to, and if
12 you did assign -- I'm sorry, an application to -- and
13 if you did give them the application you may have to
14 wait.

15 Oh, wait a second -- and I really -- this
16 is -- Jennie Wong was a terrific examiner and one of
17 the seniors who has done a lot of applications. I've
18 asked guys, hey, what's her schedule like the next
19 month or two? Oh, she's doing this. She's doing
20 training. She has vacation, and suddenly, you know,
21 I have an obligation -- there's an application --
22 real business people who want to do business in
23 California, and it becomes frustrating for me to tell
24 them I can't do this for the next three months.

25 So it's helpful for us, as an

1 organization, to have people who are functionally
2 devoted to a task so that I know that I always have
3 someone I can give that work to because what I can't
4 predict is I can't predict when applications come
5 in.

6 I know I've got a lot of applications
7 coming in, but I don't know exactly when. I don't
8 know how complicated or well-presented these
9 applications are going to be, and so on, and so at
10 the time it was, and even now, a blessing that I have
11 enough people so I can devote resources to this work
12 with the confidence that I have someone who is
13 competent to do it and is devoted to getting it done
14 in a timely way.

15 MR. KODAM: What was my question?

16 (Record read.)

17 BY MR. KODAM:

18 Q I didn't gather that I got an answer to
19 that question, Mr. Venchiarutti.

20 Can you please answer that question?

21 A You're talking about why was it assigned
22 to Don Lake in 2003 or previously?

23 Q My understanding is in February-March of
24 '09, you assigned applications to Don Lake.

25 A That's right.

1 Q Okay? At that time Don Lake was under
2 the supervision of Oscar Lumen?

3 A That's right.

4 Q And you said the manager for applications
5 has always been Julio Prada. So I'm trying to figure
6 out why were the applications assigned to Don Lake?

7 A Oh, I see what you're saying. Just
8 because -- the function of an application doesn't
9 mean that only the people who are direct reports of
10 Julio Prada would be assigned that work. So I would
11 disassociate the work from the direct report aspect
12 of this because it's just not feasible right now.

13 It wasn't until, you know -- hopefully,
14 in the near future I'll be able to organize it that
15 way, but even then I'm not sure. So, you know,
16 anyone -- and if you want to ask for the names of
17 examiners who have been assigned applications, I
18 could tell you who, and they didn't necessarily all
19 report directly to Julio Prada, I guess, is my point.

20 **MR. KNUDSEN:** Bob, I think at this point
21 what Daniel's probably trying to get at is just, you
22 know, you made the decision. You've testified you
23 made the decision, and just -- I think what he's
24 trying to get at is why did you decide, you know, to
25 give that task to Don Lake in particular. **Just what**

1 were the reasons, you know. Why did you do that?

2 Am I --

3 BY MR. KODAM:

4 Q Why Don and not one of the other
5 examiners?

6 A Oh, because this is a skill set he has.
7 He's done applications before. I recall meetings
8 where he was in the same office with me and the
9 Commissioner and talking about whether or not an
10 application should be approved or not. I felt, not
11 only was he familiar with the process, but basically
12 this was something he could do and do well.

13 Q All right. I'm going to come back to
14 that answer in a second, but let me ask this.

15 Immediately preceding this assignment to
16 Don Lake of the applications, who was doing
17 applications?

18 A As I said, Julio was the manager of it.
19 When applications came in, and we don't have control
20 over that, I would talk with Julio and talk with --
21 it depends on the timing. I'm trying to think who
22 the FISSs might have been at the time. Maybe Oscar
23 and maybe Jeanette -- because you're asking before
24 February 2008?

25 MR. KNUDSEN: But he's just talking about

1 immediately before you made the assignment sometime
2 in the spring of 2009.

3 BY MR. KODAM:

4 Q If an application came in in December
5 2008, what would happen? Because as of March 2009,
6 I'm understanding it would go to Don.

7 A And I'm answering that question. It
8 would have been the same up until that time. I would
9 have talked -- I think I would have talked with
10 Julio. I would have talked with -- I'm just trying
11 to remember who the FIS were, you know, in December
12 of 2008.

13 I think Oscar was a FIM or FIS I promoted
14 to a FIM, and I hadn't quite recruited the other two
15 fellows yet. I'm trying to remember. So I probably
16 would have talked with Julio, and then I would have
17 talked with Oscar and said who's available. Who's
18 out there? Who's tied up for the next three months?
19 Who has time to do this?

20 And the type of person who I would have
21 been happy getting the assignment is a person who I
22 know could handle it. This is not entry-level work.
23 It's the type of work our best examiners do. I would
24 not give application work to someone I had questions
25 about in terms of experience or competency level.

1 Now, having said that, there have been
2 times when we've been forced to give applications to
3 people who didn't have the experience or competency
4 that would be ideal, in my mind, and learning from
5 those experiences I've always tried to get the best
6 people on applications.

7 Q All right. I'm going to go through some
8 people individually and ask you a set of questions.

9 How long has Rowena Ruben been an SFIE?

10 MR. KNUDSEN: Rowena?

11 MR. KODAM: Ruben.

12 MR. KNUDSEN: Thank you.

13 MR. KODAM: If I'm mispronouncing it

14 I'm --

15 THE WITNESS: It's Rowena Lumen.

16 MR. KODAM: I apologize.

17 THE WITNESS: L-u-m-e-n.

18 BY MR. KODAM:

19 Q Is she related to Oscar?

20 A Yes, they are married.

21 Q Oh, okay. All right. So how long has
22 she been an SFIE?

23 A Probably since March. January --
24 January-February-March of two thousand -- sorry. I'm
25 just getting the years confused. 2009. So somewhere

1 in that time frame.

2 Q When did she start working for the Money
3 Transmitter Division?

4 A Right around that time. That's when she
5 became an SFIE -- is when she started working for
6 us. It was a promotional opportunity for her.

7 Q How long has she been with DFI?

8 A Five or eight -- I think five years.
9 Maybe six.

10 Q With regards to her situation, where did
11 she come from?

12 A She came from the Credit Union Division.

13 Q And in the Credit Union Division, is
14 there an application process as well that they need
15 to do?

16 A I'm sure there is. I'm not familiar with
17 it, but I'm sure they have an application process.

18 Q And what was the reason you didn't pick
19 her to do applications?

20 A Oh, I misunderstood. I thought -- when
21 you said "application," I thought you meant
22 application for employment, as in, if there was a
23 promotion, would someone in Credit Unions apply for
24 it.

25 Q No, I was referring to the applications

1 that the institutions submit, like -- like the type
2 of work Don was assigned.

3 A Oh, no. They don't do applications like
4 we do. There hasn't been a new credit union, I
5 think, in 10, 15 years.

6 Q Now, going back to my last question,
7 why wasn't she given the assignment to do the
8 applications?

9 A She doesn't -- she had no experience in
10 money transmitters.

11 Q All right. Omar Shaheed, when did he
12 become an SFIE?

13 A Right around that same time. He was one
14 of our examiners. So the timing may have been
15 different but right around then, meaning -- my best
16 estimate would be around January of 2- -- where are
17 we. January of 2009.

18 Q Okay. How long has he been in Money
19 Transmitters?

20 A Roughly around five years. Around the
21 same time.

22 Q How long has he been in DFI?

23 A He started with us. So the same length
24 of time.

25 Q And why was he not given the

1 applications?

2 A Couple of reasons. He's in
3 San Francisco, and he had expressed an interest, I
4 recall -- not directly to me, just from talking with
5 folks -- in, you know, doing field work, and we
6 thought he would be a good resource for just
7 remaining in the field as someone who could do an
8 exam and still train a few people while he's doing
9 it.

10 So the other thing -- I don't think his
11 writing, frankly, is all that great. That's just
12 personal observation, but, having said that, I know
13 Omar has done applications and is doing an
14 application right now. So he could have been a
15 choice, but, like I said, those are basically the
16 reasons.

17 A lot of it had to do with the fact that
18 he was in the office in San Francisco. So it would
19 be a lot easier to work with him and coordinate exams
20 because they're all right there. Travel would be the
21 same and so on and so forth.

22 Q Had Don Lake expressed interest in doing
23 applications or doing field work? Did you talk to
24 him about what his interests were?

25 A I know, not from talking to him, but I

1 know he's expressed a lot of interest in doing field
2 work, but from my point of view that was a part of
3 what we were going to do with him because I
4 anticipated that he was going to be doing a lot of
5 field work with these agent visits, you know.

6 He's strategically located right on the
7 border of Mexico. So for the Bank Secrecy Act, which
8 is what we do in exams, it's very important to, as I
9 said, start visiting agents, and in my mind -- and
10 part of what we talked about with management is
11 visiting agents and, you know, in high-risk areas,
12 and the whole area down there is in a HIFCA, High
13 Intensity Financial Crime Area.

14 So, from my point of view, I anticipated
15 he was going to be out in the field a lot down in
16 that area going to visit agents, and this was
17 communicated to him, too, during the summer we talked
18 about this project we wanted him to do.

19 I remember being in phone calls with
20 Oscar and Don, but anyway -- maybe I'm going too far
21 afield. So I know Don likes to do field work, and
22 so, yes, I know that.

23 Q You mentioned Omar Shaheed wasn't a great
24 writer. Don't exams require good writing skills as
25 well?

1 A They do, yeah. They do.

2 Q When did Frances Leon become an examiner?

3 A I think she was the very last person we
4 hired. So that must have been March 2009.

5 Q And was that her beginning with the DFI?

6 A Yeah. She just came out of college, if
7 I'm not mistaken.

8 Q When a new employee starts at DFI, Money
9 Transmitters Division, how are they trained?

10 A Well, luckily, one of the reasons I
11 remember March is because I'm on the board of
12 directors of an organization called Money Transmitter
13 Regulators Association. I'm like the vice-president,
14 and I'm very active in that organization and another
15 organization called CSBS, which is the Conference of
16 State Bank Supervisors.

17 So I knew in advance -- I mean, I knew by
18 the summer of 2008 that my BCP had been approved and
19 basically we were waiting -- the BCP is a budget
20 training proposal, which was going to authorize me to
21 hire all of this new staff, right?

22 And so I knew I was going to have all
23 these new folks, and I talked to the MTRA folks and
24 convinced them to come out to San Francisco to give a
25 MTRA -- a week-long MTRA operations school, which is

1 the first time that had ever been done, but I, you
2 know, I knew people who I could get together and they
3 would sponsor it, and we would send out -- I think
4 there was something like 20 states that attended it.

5 It was held here at the Federal Reserve
6 Bank. It was kind of a big deal, but I timed it in
7 March because I anticipated that by that time I would
8 have all of my people in place, and that's why I
9 remember Frances because we were like we've got to
10 get her in because I want her to go to this school.

11 And so normally the training might be
12 haphazard in the sense that -- here. Here's your
13 exam manual and go out on an exam and observe, and
14 then here and there we might have staff meetings
15 where we talk about particular issues, but luckily,
16 in this instance, we had at least that first
17 beginner's school or operations school.

18 So at least it was something for someone
19 like Frances to go to, and for the others they
20 actually may have been in the field once or twice
21 before they went to this school.

22 Q How are new employees trained on
23 applications?

24 A They're not.

25 Q So how does a person ever learn to do

1 applications?

2 A Because we over -- we exercise
3 oversight. I mean, at best -- again, the idea --
4 how -- there's no -- no one trained me how to do an
5 application, and you just do it.

6 Literally, you know, this is something
7 I've been involved with from the beginning of when I
8 came over to this division, and there's never been a
9 time to say here's a manual for applications. It's
10 never just evolved that way.

11 So what we do have, though, is we have
12 forms that outline the certain facts that have to be
13 discussed in a memo and references to the statutory
14 sections that need to be discussed, because we have
15 to make certain findings under the statute before we
16 can approve an application for -- and, again, this is
17 an application for a new license.

18 So this is a company that's a stranger to
19 us, that doesn't operate in California, or an
20 acquisition of control of a licensee, and so we
21 would -- it would only be an examiner who had his or
22 her feet wet, who was somehow seasoned, who knew what
23 a licensee was and how they should operate, had been
24 in exams, had been an EIC, and who was smart and a
25 good writer and had good analytical ability, that

1 should do an application, and they would look at
2 these forms.

3 I might talk to them about -- here. This
4 is what we want you to do, but it would be totally
5 unfair to give this kind of work to somebody who was
6 brand new unless they were really like exceptional.

7 So the training was haphazard at best.

8 Q Was there a period of time where
9 applications were given to the new individuals as
10 kind of an initial form of training?

11 MR. KNUDSEN: You mean, new examiners?

12 MR. KODAM: Yes. Sorry.

13 THE WITNESS: No, not that I'm aware of.
14 I mean -- and it occurred to me, as you phrased that
15 question, there was a time when there were other
16 applications that we processed, like branch
17 applications and agent applications, that we don't
18 really do anymore, and those were never in the same
19 category as the applications I'm talking about that
20 I'm involved in.

21 As I said, every single one in the last
22 seven years or eight years, however long I've been
23 doing this, I've been directly and intimately
24 involved in, every single one, and the only person
25 who was a new examiner, relatively new, that ever did

1 this work was a fellow by the name of Ken Lowe,
2 Kendrick Lowe, and he was an exceptional, exceptional
3 examiner, very bright kid, and he just got it.

4 And unfortunately he was recruited
5 somewhere else, and I'm not surprised because that's
6 what happens to a lot of folks who are as bright as
7 he was, and is, but every other person -- I always
8 tried to give it to someone who had some experience
9 or seasoning as much as possible.

10 Q When did Roman become an FIE?

11 A Same period of time. February-March
12 of -- I'm sorry. 2009.

13 Q Is that when he came to the DFI?

14 A That's right.

15 Q When did Romulus come in?

16 A Romulus came, basically, during the same
17 time. He might have arrived like in January,
18 something like that.

19 Q Was that his beginning with DFI as well?

20 A Yes.

21 Q What about Mariano Cansicio?

22 A Do you want me to spell it?

23 Q Yes, please.

24 A C-a-n-s-i-c-i-o.

25 Q I got the spelling right. I just can't

1 pronounce it.

2 A I think he's been here for almost three
3 years now with us.

4 Q Did he start at DFI as an FIE three years
5 ago?

6 A Yes, yeah, and he's still an FIE.

7 MR. KODAM: Excuse me. I need to go off
8 the record. Sorry about this.

9 (Recess.)

10 BY MR. KODAM:

11 Q Let's go back on the record.

12 Had Mariano ever done applications?

13 A When exactly -- or at any time?

14 Q Prior to March of 2009.

15 A No, I don't recall him -- I'm just
16 saying -- because now he's on applications and he
17 does really good work, but -- and I may have started
18 him on one of those assignments while Don was sort of
19 functionally assigned to it because, even while Don
20 was functionally assigned to it, I recall there were
21 still situations where we would give an assignment or
22 an application to somebody else, and I think Mariano
23 may have been one of those folks.

24 Q You mentioned that he had been with DFI
25 for three years. Was that three years -- can we go

1 off the record for a second? Sorry.

2 (Recess.)

3 BY MR. KODAM:

4 Q Okay. Going back on the record.

5 You say he's been with DFI for probably
6 three years. Was that three years from February or
7 March of '09 or three years from today?

8 A I, obviously, don't -- I don't know.
9 We've had so many new people and turnover and -- but
10 my best estimate right now -- like right now,
11 Mariano, I think, has been with us right now for
12 about four years, is my guess, but I -- that's the
13 impression that I have.

14 MR. KODAM: All right. Let's go to
15 lunch. I'm going to probably need an extended lunch
16 today. I don't want to keep you guys waiting.

17 Can we just do until 1:30?

18 MR. KNUDSEN: Sure. No problem.

19 (Lunch recess taken at 12:10 p.m.)
20
21
22

23 --o0o--
24
25

1 AFTERNOON SESSION

1:45 P.M.

2 EXAMINATION (Resumed)

3 BY MR. KODAM:

4 Q Back on the record.

5 Lisa Huang, when did she start for Money
6 Transmitters?

7 A She started right around that same
8 period. Between the middle of January to the middle
9 of March would have essentially been the period that
10 these folks -- that she was hired.

11 Q And at DFI or Money Transmitters, or
12 both?

13 A Oh, actually, with Lisa it's a little
14 different. She used to work for the DFI but -- so
15 she came on board during that time period. Let's
16 just say February, because I don't think she was the
17 last person to get hired there, and she came in as an
18 FIE --

19 Q Okay.

20 A -- and had worked previously for DFI in
21 the nineties, and I believe she worked in the Banking
22 Division at that time.

23 Q Do you know how long she worked there in
24 the nineties?

25 A A fair amount of time. I think like

1 five, six years, something like that. Maybe seven,
2 but then she went to private industry.

3 Q And she came back in around February of
4 '09?

5 A February, yes.

6 Q I think I know the answer to this, but I
7 presume she didn't know how to do applications?

8 A I don't know if the answer to that is yes
9 or no because I've never asked her to do an
10 application because she's new, and I would not have
11 considered her a candidate -- certainly not to be the
12 person who only does applications.

13 Q Edmond Wong, when did he start?

14 A He had been in the department. I don't
15 know exactly when he came on. Maybe 2007, 2006,
16 around that time.

17 Q He came to Money Transmitters or DFI, or
18 both?

19 A To both.

20 Q Was he at DFI from the beginning?

21 A Yes.

22 Q Had he done applications?

23 A He actually had prior to this time period
24 of March of '09.

25 Q And why wasn't he selected for

1 this assignment?

2 A You know, I'm not 100% sure he did before
3 that. I think he did but because he was too new, not
4 seasoned enough, but, having said that, I know that
5 in the course of 2009 he worked on an application,
6 and since then he's worked on another application,
7 and so he's showing a lot of promise. He's a really
8 good -- he has a lot of potential, Edmond does. So
9 he's worked on at least, I think, two applications
10 since March of '09.

11 Q Yolanda Torres, when did she start with
12 DFI?

13 A I think she's a little more senior than
14 Edmond, but I think she started in early 2007. Maybe
15 late 2006.

16 Q Both at DFI and as an FIE?

17 A Yes.

18 Q Had she done applications prior to March
19 of '09?

20 A I don't know. I don't recall her working
21 on -- she may have worked on some pre-filing stuff,
22 but I don't recall Yolanda ever working on an
23 application from the beginning all the way to sort of
24 the end. I'm just thinking -- I just want to be
25 sure. I don't recall.

1 Q I presume that's the reason why she
2 wasn't picked?

3 A You know, I guess, yeah. I mean, I could
4 tell you that wasn't even a consideration, but, yeah,
5 Yolanda wouldn't be a person that comes to mind that
6 she'd be good for this job. Maybe in the future, but
7 even now I wouldn't think of her as being an ideal
8 person.

9 Q Why not?

10 A Her strengths are -- she's very good with
11 people. She's like the social glue in our group, and
12 she's unlike a lot of examiners. She's very
13 extroverted, and examiners tend to be introverted,
14 and I don't want to get too touchy feely here, but I
15 just don't think that -- I think she's an excellent
16 field examiner in the sense of -- and what she really
17 would be good at, and I know she's good at, is going
18 out to do these agent visits where she can go into a
19 store and meet people and talk to them.

20 She's got great social skills in that
21 sense, and so just, you know -- you asked me why, you
22 know, that -- it just wouldn't seem like the perfect
23 fit, but I think she could do it. I don't mean to
24 suggest she wouldn't have the skills. I just don't
25 think that's the best match for this person.

1 Q Duval Ghandi?

2 A Okay. I'm sorry.

3 Q When did he start with --

4 A He's been there longer. I think he was
5 part of that group that came in in 2005, and, you
6 know, again, I'm not very good on giving you my
7 impression. It could have been '04. I don't think
8 it was as late as '06. Early 2005, or something like
9 that, and that would be true -- just to jump ahead --
10 of him, Jennie Wong and Omar Shaheed. They all came
11 in at around the same time.

12 Goodness, they were under Robert. So it must
13 have been 2005 because Robert left in 2006. So
14 anyway it's got to be early 2005, maybe late 2004, or
15 something like that.

16 Q Had he done applications?

17 A I'm sorry?

18 Q Had he done any applications?

19 A Not that I recall.

20 Q Would he have been considered to do this?

21 A No.

22 Q Because of his lack of experience?

23 A Yes, and, of the group, Duval has some
24 competency issues. I don't consider Duval a very
25 highly competent examiner. He's a very nice guy. I

1 like him, but this is -- unfortunately, there's some
2 things he just doesn't get.

3 Q Sandy Ho?

4 A You're asking me when did she start?

5 Q Yes. Sorry. Let me ask the question.

6 When did she start with -- actually, back
7 up. On Duval, he came in 2005 as an FIE and to DFI?

8 A Yes. Yes.

9 Q When did Sandy Ho come -- oh, and Duval,
10 that was all in Money Transmitters, right?

11 A Yes.

12 Q When did Sandy Ho start with Money
13 Transmitters or DFI?

14 A Yeah, boy, let's see. She would have
15 started after Duval and Omar and Jennie but before
16 Edmond and Mariano. So, you know, where would that
17 put her. 2006 maybe? Something like that.

18 Q And both to DFI and as an FIE in Money
19 Transmitters?

20 A For Sandy?

21 Q Yes.

22 A Yes. She came in to -- she's only worked
23 in Money Transmitters, and she came in as an FIE.

24 Q And had she ever done applications?

25 A I know I've talked about her doing

1 applications in this past year or so, but no, and I
2 just want to back up a bit about the process.

3 There are -- we have a process that's
4 called, you know, a pre-filing process, and we don't
5 just accept, willy-nilly, applications from anybody
6 that shows up on our doorstep. Generally, they have
7 to reach out. I'll have a phone conversation with
8 them, or Julio will. We'll send them a series of
9 questions. They need to provide information in
10 response to that.

11 That will get analyzed, and then we'll
12 schedule a pre-filing meeting, and so what happens
13 often is you'll have that work done, and then they'll
14 decide, you know, after -- this isn't really how we
15 want to go. We're going to structure it some other
16 way or -- so Sandy may have done some pre-filing work
17 here and there, because I think she did, but never to
18 the point where we actually got an application and
19 she was assigned to it.

20 Q And I presume that's the reason why she
21 didn't get considered for this?

22 A If you mean why in March of 2009, yeah.
23 That's right.

24 Q Jennie Wong, when did she start with
25 Money Transmitters?

1 A She came in with Duval and Omar. So,
2 again, it was a range of -- I think all this was in a
3 period of like four or five months where she was
4 hired. So I guess late '04 or early '05 is roughly
5 what I recall.

6 Q And she came in as an FIE?

7 A Yes.

8 Q Was that when she started with DFI?

9 A Yes.

10 Q And when did she promote to SFIE?

11 A In -- I'm pretty sure it was in -- well,
12 I'm not 100% sure. The latest it would have happened
13 would have been around the January, February, March
14 '09 period. That would be the latest. I'm certain
15 that by then she was an SFIE, but it might have
16 happened about six months before then. Within that
17 time range.

18 Q Did she promote to SFIE within six months
19 of coming in?

20 A Oh, is that what I said? No, no.

21 Q That's what I understood.

22 A No. No. No. It would have been within
23 six months of March of 2009, and I'm just trying to
24 remember.

25 You know, my best guess, thinking about

1 this a bit more, it probably would have been in the
2 fall of 2008, but I'm just not 100% sure.

3 Q Does she know how to do applications?

4 A Yes.

5 Q And was she considered?

6 A Yes.

7 Q And why wasn't she assigned?

8 A She's a terrific examiner, and I think
9 very highly of her. I think the management team
10 does, too. So she was one of the people we
11 considered. There's only a few people we would have
12 considered to really devote to this because of the
13 skill set that's needed, but because she's in
14 San Francisco and her role with all these, you know,
15 in the examination function -- she's really good at
16 setting -- or teaching, excuse me, training, on-site
17 training.

18 She's just very good at it, and so
19 particularly in that interim when we were so
20 concerned about making sure the new examiners got
21 trained and up to speed as quickly as possible --
22 which is still right now an ongoing issue for us, a
23 challenge. Jennie is just a key resource for that.

24 I mean, I wish I had three Jennies, you
25 know. She could have been in the field training, and

1 she could do applications. She could be my analyst,
2 which one of these days I'd like to have an actual
3 financial analyst reporting directly to me. She's
4 highly, highly skilled, but right now her best -- the
5 best use for her skills is just to be in the field as
6 an EIC training folks -- and doing the exams, by the
7 way, you know.

8 Again, if I didn't make this clear, she's
9 also in San Francisco, which is where a lot of staff
10 is. So just in terms of the logistics of travel, you
11 know, and all of that -- it's just easier.

12 Q In March of '09, did you consider
13 Don Lake a great examiner?

14 A I consider him a competent,
15 highly-trained examiner. The caveat is it's when he
16 puts his mind to it, to be perfectly blunt, and
17 clearly, in my opinion, Don is smart enough, has the
18 experience, knows how to do an exam, knows how to
19 talk to business folks, managers, at a high level.

20 He has a lot of skills, and so the caveat
21 is just that he always bring it, and, in addition,
22 the caveat, you know, would be some of the issues we
23 talked about, his relationships with his peers and
24 colleagues and folks that he worked with, and some
25 people really like Don, and others, you know,

1 just didn't like Don.

2 Q When you say some people liked him and
3 some people didn't, are we talking FIEs, or are we
4 talking the applicants?

5 A No, we're talking about FIEs. I was
6 talking about in the context of an exam, you know,
7 his colleagues on an exam, and we haven't talked
8 about this, but I feel like I want to explain
9 something about an exam, you know.

10 A A typical way you do an exam is it's two
11 examiners at the company's headquarters for two
12 weeks. So it's very important -- and sometimes it
13 will be three. Big companies, it might be three
14 weeks with more examiners, but the typical
15 arrangement is two weeks, two examiners. So, you
16 know, it's important -- and often overnight.

17 So it's just important that folks get
18 along, and we are mindful that that's not the same as
19 coming to the office every day with colleagues, you
20 know. It's a different working arrangement, and, you
21 know, I also think it's to be expected that people
22 get on each other's nerves on occasion.

23 So all I mean by that is this would be an
24 issue with Don. I think Don can do exams at a really
25 high level, if that's what you're asking, if he

1 applied himself and was motivated.

2 Q Did you ever tell Don this part about
3 applying himself?

4 A I don't think I did.

5 Q Was it ever in any of his IDPs?

6 A No, I would not have been involved in
7 that.

8 Q What about Steve in the L.A. office?
9 When did he start with --

10 A Well, everyone -- in the L.A. office we
11 have Shahiv, who is the manager. He didn't come on
12 board full time to Money Transmitters until about the
13 middle of February.

14 Q You're talking about Shahiv?

15 A Shahiv. He was hired, I think, and in
16 that position in December --

17 Q I'm sorry. I apologize.

18 (Recess.)

19 MR. KODAM: I apologize.

20 MR. KNUDSEN: No problem.

21 MR. KODAM: Why don't we have the court
22 reporter read back where we were so, that way, it
23 helps refresh your memory.

24 (Record read.)

25 THE WITNESS: So I'm happy to continue

1 from there. So, again, he was hired in December
2 technically to fill my management position in Money
3 Transmitters but because of outstanding work
4 assignments with the Banking program down in the
5 Los Angeles office, which is where he was previously,
6 he didn't really start with us, you know, until the
7 end of January, early February.

8 I believe it was early to middle
9 February before he finally was on board full time,
10 and then from that point until mid-March is when we
11 hired all of the examiners in the L.A. office.

12 Q So all of the examiners were relatively
13 new in L.A.?

14 A I'm sorry. Say that again?

15 Q So all of the examiners in L.A. were
16 relatively new?

17 A Brand new.

18 Q I should say as of March of '09?

19 A Yes. Exactly. They were new hires who
20 had never worked with DFI.

21 Q So in March of '09, when Don Lake was
22 picked to do the applications, we've already talked
23 about Jennie Wong as a possibility.

24 Was there anyone else who was considered,
25 when you were looking at individuals, to do the

1 applications?

2 A You know, it would -- Jennie and possibly
3 Omar, I think, and I'm just trying to go back in time
4 a bit and think who I would have really thought about
5 putting in there, you know, functionally assigning
6 that task.

7 Maybe Edmond. Edmond is really sharp, a
8 sharp kid, has a lot of promise. He's done
9 applications since then, but he was just still too
10 new, too new basically.

11 So really -- and I think about the staff
12 we actually had on hand. It would have been Don,
13 Jennie, Sandy -- not Duval but Omar, yeah. We
14 thought about him, and that's really it. Maybe
15 Mariano.

16 I might have thought about Mariano, too,
17 Mariano Cansicio, but, again, he was just too -- he
18 just doesn't have enough years under his belt, but,
19 having said that, he's doing application work for me
20 now, and I think he's really up to the task.

21 Q So can you summarize for me the reason
22 Don Lake was picked over these four individuals for
23 the March 2009 application assignment?

24 A I think because he'd done these before,
25 more than others. Maybe Jennie is the only one who'd

1 done as many as he had at that time. Because of his
2 skill set, his experience. I actually thought it
3 would be something he would enjoy doing.

4 I've come to learn I guess I was wrong --
5 and it was just a good match in terms of what we
6 needed to do, in terms of our organization, to get
7 from where we were in March of '09 to where I
8 envisioned we would be a year later or two years
9 later.

10 And now that I think about it probably --
11 I'm sure we were talking about it -- it had to do
12 with the training of examiners and his location being
13 down in San Diego. That it wasn't a skill set of
14 his.

15 I think I remember saying look. For some
16 exams, if we have a need where we can just send one
17 person to go there and do it in a week, Don -- I
18 remember telling folks, you know, let's see if Don --
19 and as far as I know, I think, Don has done exams, I
20 mean, during this time in 2009. I would love to like
21 look at our records to see what exams he worked on,
22 you know.

23 At least I'm under the impression he
24 wasn't just tied to a desk, you know, doing
25 applications, you know, and -- but so those were the

1 reasons. It was a good match in terms of his skill
2 set, and I didn't want to overwhelm any of other
3 examiners, particularly someone like Jennie, who
4 was -- we were really going to rely on a lot in the
5 next six to twelve months. I didn't want to, you
6 know, take her out of the field during that period of
7 time.

8 So, you know, one other factor as I'm
9 talking about this -- the other issue is we were
10 being furloughed, which meant, you know, 15% of our
11 capacity was just taken right off the table. Yet we
12 still had, you know, performance objectives. We had
13 applications that had to be processed. We roughly
14 have a 120-day goal in processing applications.

15 So in an environment where the furlough
16 cuts into your capacity, with all these new people
17 who were physically located in two offices, and Don
18 was one of the handful of folks that had the skill
19 set that we'd be needing for this function, where I
20 always felt and even now want people to be
21 specialized in, it just made -- it made the most
22 sense.

23 Q Had furlough started in March of '09?

24 A I've been on furlough until it was lifted
25 officially June 30th of 2010, and, lucky me, I'm

1 subject to this minimum wage world. I guess that's
2 in the courts to be resolved one way or another. I
3 think it's been eighteen months the furlough program
4 has been in place.

5 Q I thought it started last July.

6 A No. It's been eighteen months.

7 Q All right. I want to point you to
8 Exhibit 9, Page 10. On Line 24 you mention "my
9 colleague in the Banking side."

10 Is that Craig Carlson?

11 A Let's see. It would have been
12 Craig Carlson, you know. I'm reading it now, and I
13 wonder if I said "my colleagues in the Banking side,"
14 rather than "colleague." I was never given the
15 opportunity to correct this, but reading this now and
16 thinking about the subject that I'm talking about
17 there, I remember that being an issue for both
18 Craig Carlson and Albert Marquez, who were the two
19 people I spoke to down there.

20 Q Page 12, please. Let me do the set-up
21 before I ask you the question on this.

22 When did Jeanette Barazza come to the
23 Money Transmitters Division?

24 A It would have been the fall, winter, of
25 '04. Like the end of '04, somewhere around there.

1 Q What position did she come in as?

2 A An SFIE. I think she -- I'm trying to
3 remember how we even had a vacancy, but she would
4 have come in as an SFIE.

5 Q And then where did she come from?

6 A She was in the Sacramento office and had
7 worked in the Banking Division, and I'm really trying
8 to remember. I know she was an FIE there. What is
9 not clear to me is whether she came over as an FIE
10 and then later became an SFIE in our division or
11 whether she started from day one as an SFIE. That's
12 the part I'm not clear about.

13 Q How long had she been at DFI when she
14 came over?

15 A I think she came in in 1999 or 2000,
16 around that time.

17 Q With regards to her transfer to Money
18 Transmitters, what precipitated that? How did it
19 come about? Because you mentioned that Don Lake was
20 through Carol Chesbrough. How was --

21 A As best I recall, we must have had a
22 position open. Now, whether we -- I'm trying to
23 think if it was because someone left, or was this one
24 of the positions over the course of time.

25 I'd just been through BCP's, finance

1 letters, acquiring positions in the budget. So I,
2 you know, I don't know specifically how it happened,
3 but what must have happened is that we got a position
4 and that she applied for it. I think that must have
5 been what happened.

6 Q Did you know her prior to her coming
7 over?

8 A No.

9 Q Did Julio know her before she came over,
10 if you know?

11 A I don't know.

12 Q Now, if she applied for it, what's the
13 process? What's the next process? First come, first
14 served?

15 How does it work?

16 A I don't have a very good recollection of
17 this, to tell you the truth, and, you know, unlike
18 Don Lake where Carol approached me, and this is sort
19 of experimental, this was a position we were going to
20 hire, and that much I recall.

21 I'm assuming from that that it must have
22 been a promotional opportunity because it would be
23 very highly unusual for someone to transfer from FIE
24 to FIE or, to do what Don did frankly, go from SFIE
25 to SFIE. You don't switch divisions or departments

1 unless it's a promotional opportunity. It would just
2 be unusual, and I don't remember anything unusual
3 about this.

4 So, therefore, I'm assuming we must have
5 had a senior, posted it and people applied, and then
6 she was deemed to be the best candidate.

7 Q Now, when people apply, do you
8 interview? Do you review their prior IDPs?

9 A I don't recall interviewing for this
10 position. This was a position that was probably
11 filled by Robert --

12 Q Mbama?

13 A Yeah, Robert Mbama and maybe Julio.

14 Q And at some point Ms. Barraza got
15 promoted after she came to Money Transmitters; is
16 that correct?

17 A That's correct. Yes.

18 Q When was that?

19 A It was after Robert Mbama retired and
20 he -- as I recall it was June 30, 2006, which is the
21 end of our fiscal year. So -- but I don't know if
22 that's the last day he was there, I don't remember,
23 or if that was the day he came off the books as a
24 vacancy because, you know, often people retire and
25 they leave -- because they have accumulated time.

1 They figure out a way to leave so that they burn up
2 all their annual leave or sick leave or something.

3 So what I don't know is if June 30 was
4 his last day or not, I guess is what I'm trying to
5 say, but that was his official retirement day, I
6 believe, when we had the vacancy. That's what I
7 recall, and that is why I remember that so clearly is
8 it was the fiscal year.

9 MR. KODAM: Take a few-minute break?

10 MR. KNUDSEN: Sure.

11 (Recess.)

12 BY MR. KODAM:

13 Q Ready?

14 A Yes.

15 Q Just a quick step back. Had you
16 mentioned ever to Donald Lake that, once Robert Mbama
17 retired, that he would be able to get that position?

18 MR. KNUDSEN: Donald Lake would?

19 MR. KODAM: Yes.

20 THE WITNESS: Just to be clear on
21 something, had I told Don Lake that he would get
22 Robert Mbama's position when Robert Mbama retired?

23 BY MR. KODAM:

24 Q Or left. Not necessarily at the time
25 Robert left but potentially as early as when Don Lake

1 came to Money Transmitters?

2 A I don't think so. That's just not
3 ringing a bell. If we had a conversation along those
4 lines, what could have been possible is me saying
5 that there would be promotional opportunities because
6 we were growing and expanding, which is what we've
7 done, and whereas there wasn't as much opportunity on
8 the Banking or Credit Union side, you know, because
9 there were just more folks who were well-entrenched.

10 So -- but it would never have been in the
11 context of a promise or anything like that that he
12 would get any position at all.

13 Q Did you discuss promotional opportunities
14 at all with him when he was thinking -- or early on
15 when he came to Money Transmitters?

16 A Yeah, that would have been the time frame
17 or the period when he was sort of on a volunteer
18 basis with us, and you know -- and, again, this came
19 up, you know, because he wanted to turn, you know, a
20 new chapter in his DFI career. He had expressed to
21 me that he felt like there wasn't much opportunity.

22 I mean, I remember talking to
23 Carol Chesbrough, and she sort of said, hey, Don's
24 interested, and I remember asking him why would a
25 senior in Banking in Sacramento be interested, and

1 basically he said, well, look. He doesn't seem to
2 have too much, you know -- it was made clear to me
3 that this was -- it would be good for him to have a
4 breath of fresh air in a new group, and I felt like
5 okay. Great. Better than nothing.

6 From my point of view it was here's
7 someone free or, you know, no one, and so I thought,
8 yeah, great, come on. Come on board, and let's give
9 this a shot and make it work. That would have been
10 the context, that we were growing and big -- not big,
11 small, but I wanted to grow.

12 I had a very clear vision back in 2003 of
13 how I wanted to grow and the number of people I
14 wanted to get and that sort of thing. So we had
15 conversations along those lines that I think there's
16 promotional opportunity for folks here.

17 Q How many people applied for Robert's
18 position after he retired?

19 MR. KNUDSEN: This is the June 30th, 2006
20 for the Barazza promotion -- that she ultimately
21 got? This is that one?

22 MR. KODAM: Yeah. Except I don't know if
23 that's when the interviews happened, that date, but,
24 yes, the rest of it is accurate.

25 THE WITNESS: What I recall is -- I don't

1 know the answer. I don't recall the number. I
2 remember it being -- thinking about -- the real
3 candidates, in my mind, were Oscar and Jeanette.

4 I think there may have been two other
5 folks who had applied that -- but, you know, I don't
6 remember specifically. They were never on my radar
7 where I would say this is a real candidate for this
8 position.

9 So my best recollection is three, four,
10 something like that.

11 BY MR. KODAM:

12 Q Do you remember their names, besides
13 Jeanette?

14 A I wish I did. I don't.

15 MR. KNUDSEN: You mean, Jeanette and
16 Oscar?

17 THE WITNESS: Yeah, Jeanette and Oscar.

18 MR. KODAM: Jeanette and Oscar, yeah.

19 BY MR. KODAM:

20 Q Did you interview them?

21 A Interview?

22 Q The candidates for this position.

23 A I interviewed Jeanette. I don't have a
24 recollection of interviewing Oscar, to tell you the
25 truth.

1 Q Would you have interviewed all of the
2 candidates?

3 A No. I would not have interviewed this
4 one or two other people that I'm thinking of. Just
5 because you get applications doesn't mean you
6 interview everybody. It's like you get an
7 application for a position. You kind of look at the
8 candidate and make some decision about who you want
9 to talk to.

10 Q Did you ever talk with Jeanette prior to
11 her application for the position?

12 MR. KNUDSEN: You mean, about the
13 position?

14 MR. KODAM: Yes. That was poorly
15 worded. Yes.

16 BY MR. KODAM:

17 Q Did you ever speak to Jeanette about the
18 position prior to her application?

19 A I'm sure I must have, yeah.

20 Q What did you tell her, to the best of
21 your recollection?

22 A That I was interested in knowing whether
23 she was interested in that position, and she had
24 talked to me about, you know, I know Robert's
25 retiring. It wasn't a secret.

1 For a year everybody knew Robert was
2 retiring, and we were a very small group, and I kind
3 of remember Jeanette at one point knocking on my door
4 and saying hey. I'm interested in this job. What do
5 I need to do to make myself a good candidate for this
6 job, and I certainly had at least one, two, maybe
7 even more, conversations with her about it.

8 They weren't necessarily an hour long --
9 but it was clear that she was interested in the job,
10 and it was clear -- I'm sure I let her know that I
11 thought she would be a really good candidate for the
12 job.

13 Q Did you speak to anyone else about the
14 position prior to --

15 A Possibly Oscar, but I don't have an
16 independent recollection of that like I did with
17 Jeanette, and I don't know why that is.

18 Q Did you approach Jeanette, or did she
19 approach you?

20 A That's a good -- I don't know. Maybe it
21 was because Jeanette approached me at some point and
22 initiated the dialogue, but what I can tell you, from
23 my point of view, regardless of the -- I remember,
24 you know, we knew Robert was retiring for a year.
25 That's just the way he is. He's a social guy. Great

1 guy, very enjoyable guy to be in the same room with,
2 that kind of a person, and we were all happy for
3 him.

4 It was like a year-long celebration for
5 him, and -- but I remember -- so I remember thinking,
6 well, who is it going to be? Who was in our group.
7 Who might it be, and clearly the people that I
8 thought would be really good for this were Oscar or
9 Jeanette. In my mind, those were really the two
10 folks that were pretty clearly going to be the folks
11 who would get the job.

12 Now, that wasn't communicated to
13 anybody. That was just me, you know, other than my
14 conversation with Jeanette where I said, hey, I think
15 you'd be a very good candidate for this, and here's
16 what I think you should do.

17 Q Did you ever speak with Donald Lake about
18 it?

19 MR. KNUDSEN: Objection. Outside the
20 scope of discovery. Irrelevant.

21 You may, however, answer.

22 MR. KODAM: Hold on a second. How is it
23 outside the scope of discovery -- me asking if he
24 spoke with Donald Lake about the position?

25 MR. KNUDSEN: Oh, easily. It's not part

1 of his DFEH charge. So, therefore, regardless of
2 what happened with the promotion, my looking at it is
3 that it's irrelevant. However, obviously, I'm going
4 to allow the witness to answer.

5 MR. KODAM: I just wanted to get an idea
6 of where you were --

7 MR. KNUDSEN: There you go. You asked.
8 I answered.

9 BY MR. KODAM:

10 Q Do you need me to repeat the question?

11 A No. And I do remember having -- talking
12 to Don about the job, among a whole host of other
13 issues, but, yes, we talked about it and particularly
14 on one occasion.

15 Q Okay. And what was said in that
16 conversation?

17 A Well, what I remember is this was part of
18 our, from my point of view, sort of planning and
19 related to his move down to San Diego, and I
20 think this must have been, you know, around the time
21 that we were conducting the interviews or -- we were
22 in a transition.

23 We were right in the transitional phase,
24 basically, is when this conversation occurred, and
25 with Don it definitely would have been in the context

1 of his move to San Diego and hey, Don. Here's what
2 we're doing. You know, Jeanette's -- we're going to
3 make this decision public. Jeanette's going to be
4 the person who we're going to replace. She's going
5 to be in this job. You're going to report to Julio.
6 It won't affect you.

7 That was the nature of the conversation.

8 Q Did he ever state that he wanted to have
9 that position?

10 A I don't remember Don ever telling me,
11 point blank, I want to get the position that Robert
12 is vacating when he retires. Those words never came
13 out of Don's mouth, at least as I recall.

14 Q Do you know how long Don was working for
15 DFI when he came over to Money Transmitters?

16 A I don't know precisely. I'm under the
17 impression it was in excess of 20 years by the time
18 he came over to our group.

19 Q Did you ever talk to him about promoting
20 or if he had any interest in promoting?

21 A Probably in that time period of 2004,
22 when he was coming over to Money Transmitters, and
23 that would have been in the context of, hey, do you
24 want to stay?

25 And that would have been probably the

1 first time that I knew that he wanted to, you know,
2 move to San Diego, that he didn't think his
3 relationships in Banking were going to support that
4 kind of a move in the long run, and I think what he
5 told me -- I think it was clear from his point of
6 view that he would have liked promotional
7 opportunities there, and I think what I -- what I
8 probably would have communicated to him is I think
9 we're going to have promotional opportunities.

10 Come with us and, you know, kick some
11 ass. I'm sorry, but that's kind of what I -- you
12 know, and I feel like the sky's the limit. I'll
13 support you, and I think you have more -- he probably
14 would have had more opportunities with us.

15 So that would have been the context of
16 when I spoke with him specifically about promotional
17 opportunities, and -- oh, let me back up. Just to be
18 clear, he applied for the FIS position when I hired
19 Robert, you know. It was right on the heels -- I'd
20 never -- I didn't know Don from anybody until the
21 interview process for Robert, and I thought very
22 highly of Don in that interview, and I think, you
23 know, we chose Robert for a variety of reasons.

24 And then it was right on the heels of
25 that where Don sort of -- the possibility of Don

1 coming over came up and did arise, and he did make
2 the transfer, and so, you know, I knew Don.

3 There was some connection to him moving
4 to Transmitters and promotional opportunities. It
5 was all part of the same sort of package of why he
6 was interested, but other than that I don't remember
7 ever having Don coming to me and saying like Robert's
8 position -- I want that job. What do I need to do to
9 get it? Plus, he was moving to San Diego, you know.

10 Q Was he moving to San Diego in 2007?

11 A No, but it was 2006 where I was having
12 conversations with him and with Craig and Albert, and
13 we had resolved all of that by the summer of 2006. I
14 mean, I kind of remember this being, you know, an
15 August-September thing where I said, Don. It's ready
16 to go. When do you want to go down there? They can
17 take you, and he said, oh, awesome. Well, can you
18 give me until -- and then it turned out it worked out
19 best to do that at the end of the year because, among
20 other reasons, he had accumulated, you know, so much
21 leave time.

22 He's on a program to -- you know, he has
23 to sort of be forced to take leave, and so for
24 planning purposes it just worked out better that he
25 took off like the whole month of December and like

1 half of November, that kind of thing, you know.

2 And so by the time August-September rolls
3 around you're talking with Don, and he's like can we
4 do it when I'm off? Basically, can I start
5 January 1st? I said fine. Whatever works for you.
6 They'll be fine to take you down there. They've
7 agreed that you can move down there.

8 MR. KODAM: We're going to take a quick
9 break. Sorry.

10 (Recess.)

11 BY MR. KODAM:

12 Q All right. Let's go back on the record.
13 Did you have any discussions with
14 Julio Prada about the job opening that was coming up
15 with Robert leaving?

16 A Yes.

17 Q How many?

18 A Numerous.

19 Q And what did the conversations entail?

20 A You know, I don't recall specifically,
21 but at least from my point of view the gist of the
22 conversations was I was interested in making sure
23 that whoever was the new FIS would have a good
24 working relationship with Julio. Plus, he is more
25 directly -- or closer to the examiners and knows more

1 about how they interact and so on and so forth.

2 So I was probably trying to get some
3 feedback from him. How's Oscar doing? How's
4 Jeanette doing? How's Jennie doing -- whoever, you
5 know, and I would say the same answer would be true
6 for Robert Mbama. I was particularly interested in
7 Robert's opinion because, you know -- just because
8 Robert was highly experienced and very -- he had very
9 good social sense.

10 It's hard for me to say. He just was a
11 highly socially competent person, and even more than
12 Julio, in some cases, he knew more about how the
13 people were interacting with each other. Plus, it
14 was his replacement, basically. So I really wanted
15 to get his feedback and input on who the replacement
16 would be.

17 MR. KNUDSEN: Bob, at this point you've
18 sort of gone and sidestepped the original question.
19 I think Daniel was interested in, and he can probably
20 ask you about Robert Mbama, but just for right now
21 he's focusing on conversations that you would have
22 had with Julio Prada about the issue.

23 THE WITNESS: Fair enough. I apologize.

24 BY MR. KODAM:

25 Q Did Julio Prada recommend anyone for the

1 position that Robert was vacating?

2 A You know, I probably asked for his
3 recommendation, not formally or in writing but just
4 verbally, and I think it's fair to say that he
5 recommended Jeanette.

6 Q Did he recommend her before or after the
7 application process?

8 A Well, what I was thinking of in that
9 answer was like after, when we were really at the
10 point where, you know, there is a vacancy. We need
11 to fill it, and I would add there were some -- I
12 think Jeanette filled it in an acting capacity for a
13 period of time, and I don't know what the reason was,
14 but -- so there was that part of the process as well,
15 but my -- what I was thinking of is, you know, at the
16 point in time where I was saying, hey, I need to, you
17 know -- this position is vacant. Who's going to fill
18 it, sign all the paperwork, all of that, make the
19 offer, I'm sure that I would have finally talked to
20 Julio and said, hey, what's your recommendation?

21 And, again, it's fair to say that --
22 well, it's funny. He might have said you know what?
23 I like them both. They could both be there. So he
24 could have very easily said that. So I don't know.
25 It's very plausible that Julio would have said, Bob,

1 they both could work out really well. So I don't
2 want to put words in his mouth.

3 Q But this would have all happened after
4 the fact? He didn't make any recommendation to you
5 before the fact that we should kind of see if this
6 person wants that position?

7 A The word "recommendation," I think -- it
8 never came up like that, no. So before June, you
9 know, before he was going to retire, there was a
10 period of time where, you know, we have someone with
11 skill sets and we want to transfer knowledge, and I
12 think I must have spoken -- I kind of remember
13 talking to Robert and Julio and saying, you know, I
14 don't want Robert to walk out the door and be left in
15 the lurch.

16 That would be stupid. That's a dumb way
17 to run an organization, and let's talk about -- at
18 least in my mind, I'm sure I expressed to Julio the
19 folks that I thought would be really good for it, and
20 exposing them to some of what Robert does, you know,
21 that would be the kind of thinking.

22 And so there would have been a
23 conversation before, and whether it was a
24 recommendation or -- I mean, we're a small group, and
25 I think we all were talking about Jeanette and Oscar

1 in that context, you know, the transfer of knowledge
2 before Robert walks out the door.

3 Q If you know, are there regular meetings
4 that are had between all the examiners and Julio?

5 A You know, there are what we call staff
6 meetings. How regular they are -- that's the only
7 part of it -- I don't want to give you the impression
8 that we have a formal -- every week we all meet.
9 That's not the arrangement at all, but we do try to
10 schedule a staff meeting once every quarter as a
11 goal. We don't always achieve that.

12 What we do have, though, is when a lot of
13 the folks are in the office, you know, on an ad hoc
14 basis we might just bring people into an office and
15 start talking to them about an issue that may have
16 arisen. So there are less formal meetings with the
17 staff, maybe not all of them, you know, but a subset.

18 Q What happens at these meetings -- the
19 staff meetings?

20 A Well, the staff meetings are an
21 opportunity for all of us to sit in a room together
22 and talk, at least the way I conceive it. What I
23 usually do is task someone with the job of, you
24 know -- we don't have a formal agenda, but we will
25 set up an agenda of sorts, you know, just to be sure

1 that there's something to talk about, and
2 frequently -- I mean, it's not too hard.

3 There's usually some issue or something
4 that we want to talk about, and that's just so that
5 we don't all get in the room together and, you know,
6 have a useless meeting, and I always actually -- I
7 don't know if I was doing it then, but I would send
8 out an email to the staff and say, hey, what do you
9 guys want to talk about. What are the issues you
10 want to discuss?

11 So it could be anything, you know. The
12 issues could cover anything from field issues to, you
13 know, personnel issues in the sense of, you know,
14 budget stuff and what's going on with the furlough.
15 How are we going to manage that -- to literally
16 anything that might be of interest to the managers or
17 to the staff.

18 Q Do you know of, at any point, Donald Lake
19 being told that he should not speak in any meetings?

20 A No.

21 Q Did Julio Prada ever tell you anything
22 about Donald being asked to not speak at meetings?

23 A Do I know -- no, I've never heard that.
24 I've never heard Julio say, Don, don't speak at
25 meetings.

1 Q Would Jeanette Barazza, prior to her
2 promotion to FIS, was she given any sort of
3 additional leadership duties?

4 A Was she given any additional leadership
5 duties in general or as it relates to staff meetings
6 or something?

7 Q Let me rephrase.

8 Were any assignments given to Jeanette
9 that would fall under the task of an FIS rather than
10 an FIE or SFIE?

11 A Oh, boy.

12 MR. KODAM: Sorry. Let's go off again.

13 MR. KNUDSEN: Okay.

14 (Recess.)

15 THE REPORTER: Counsel, while we're on a
16 break, can I ask you again, please, would you like a
17 copy of this transcript?

18 MR. KNUDSEN: Oh, yes, I would.
19 Certified, condensed. ASCII or email, however you're
20 going to send it as an electronic copy, would be all
21 right.

22 THE REPORTER: Thank you.

23 BY MR. KODAM:

24 Q Back on the record.

25 That was prior to her obtaining the

1 position.

2 A I don't recall, and I would clarify
3 because, you know -- and maybe the question wasn't
4 related to staff meetings. I'm not quite sure if
5 you're talking generally with respect to -- or staff
6 meetings, I guess. So maybe that's my question to
7 you.

8 Q I'm talking generally right now.

9 A Oh, generally?

10 Q Does she have additional things that she
11 started doing that were more FIS than SFIE related?

12 A Well, there may have been this period of
13 time where she was kind of in an acting capacity
14 because Robert had left, but the vacancy didn't
15 open because Robert wasn't off the books, but we
16 still needed somebody to do that job.

17 And so she would have been sort of an
18 acting, you know -- and I think we would have filed a
19 request for -- what do you call it -- out-of-class
20 pay because there are times when folks who are not at
21 a certain level get asked to do work out of their pay
22 level. So you need to reimburse them.

23 So I think -- I'm pretty sure we did that
24 with Jeanette for a period of time there. I don't
25 remember when precisely. So anyway -- so that would

1 be the duties clearly of a FIS. In advance of that,
2 I don't particularly recall thinking to myself let's
3 take Robert's work, his FIS work, and give that to
4 Jeanette to do.

5 What I do recall is asking Robert to make
6 sure that Jeanette and Oscar were being trained and
7 exposed to what he does because I just didn't want
8 Robert to leave and, you know, have to start, you
9 know, reinvent the wheel, you know. I wanted his
10 knowledge to be transferred, you know.

11 He'd spent, you know, 20-plus years, and
12 Robert had always been doing money transmitter work
13 or least since the early nineties. So that would
14 have been the kind of -- that would have been the
15 work arrangement. This would be the last few months,
16 springtime of '06, summer of '06. Did I get the year
17 right? Yeah. '06.

18 Q When Robert was asked to, for lack of a
19 better way to put it, train Jeanette and Oscar on his
20 position, was this -- how do I put this? Was this
21 prior to them applying for the position? Was this
22 after them applying for the position?

23 A It would have been prior to any formal
24 application process.

25 Q And why just those two?

1 A I don't think there was anyone in our
2 division who would be -- had enough experience under
3 their belts, certainly not in the San Francisco
4 office, and so, you know, there was literally nobody
5 else.

6 If there was a candidate outside of our
7 division -- it just isn't feasible. You can't say,
8 oh, to a hypothetical senior in Banking in the next
9 four months can you shadow Robert, you know. They
10 have their own full-time jobs.

11 So that's -- you know, there isn't
12 another option. There's not -- you know, that would
13 be the only possibility.

14 Q What about Donald Lake?

15 A He was moving to San Diego. The FIS
16 position was in San Francisco. It wasn't even on the
17 radar screen.

18 Q On whose radar screen?

19 A On my radar screen that Don would be
20 interested in -- after everything we've talked about,
21 his plans to move to San Diego, which I'd known about
22 for years, to say, oh, yeah, you have an opening,
23 Robert's opening, in San Francisco -- Don, as I
24 said -- I mean, it wasn't even, you know, on my radar
25 screen that Don would want that.

1 I actually don't believe that Don was
2 ever interested in a FIS position in San Francisco.
3 I just don't believe that.

4 MR. KODAM: Why don't we stop here. This
5 is a good stopping point.

6 MR. KNUDSEN: That's fine.

7 MR. KODAM: Let's stipulate to relieve
8 the court reporter of her duties under the Code. The
9 original transcript shall be forwarded to opposing
10 counsel's office. Defense counsel will forward it to
11 the deponent, who will have 30 days -- is that
12 correct? 30 days?

13 MR. KNUDSEN: That's fine.

14 MR. KODAM: 30 days to review it, and
15 then subsequently upon receipt of the responses will
16 provide to me that to me in two weeks. If the
17 original is lost or stolen, a certified, unsigned
18 copy shall be used instead.

19 MR. KNUDSEN: So stipulated.

20 (END OF DEPOSITION.)
21
22
23
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25

1 I hereby certify under penalty of perjury
2 that I have read the foregoing transcript.
3 Corrections, if any, were noted by me, and the same
4 is now a true and correct transcript of my testimony.

5 Executed this_____day of_____,
6 20____, at_____, California

7 _____
8 Robert Venchiarutti
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MEMORANDUM

May 6, 2005

To: Robert Venchiarutti

From: Donald H. Lake, Jr.
Patrick Lum
Rosalyn Tomaszewski

Subject: TMA Management/Julio Prada

Dear Bob:

We just wanted to give you a confidential update on the unfortunate and deteriorating work environment at Special Licensees (SPL). Hopefully, it can provide a brief insight in the daily work of Senior Examiners in the field. Our goal is to improve the morale and working conditions at SPL, have all employees treated with respect and dignity, and attempt to meet the considerable challenges by management with expected professionalism and outstanding performance at the examiner level.

At this time, all three Senior Financial Institution Examiners (Donald Lake, Patrick Lum and Rosalyn Tomaszewski) are experiencing considerable amounts of workplace stress brought on by FIM Julio Prada. He has apparently been under significant stress as of late which has resulted in a corresponding amount of excessive demands and expectations at the senior examination level.

Delineated below are some of the recent complaints noted by senior examiners at the SPL level towards Mr. Prada:

1. Micromanagement of all processes of an examination resulting in lost time at the licensee place of business and disruption of the examination process
2. Constant and excessive e-mails, voicemails and phone calls concerning examinations, immediately preceding the exit review with management and then months later concerning the very same subject
3. Constant dissatisfaction with virtually every aspect of completed examinations and admonishment of the EIC with the final examination report
4. Numerous verbal complaints from licensees concerning the apparent behavior and mismanagement of SPL by Mr. Prada, including the inability to process application and branch requests in a timely manner
5. Examination schedules that are unrealistic, excessive and resulting in final work products that are highly criticized by Mr. Prada as generally unsatisfactory
6. Loss of the 9/8/80 work week when examiners are traveling in or out of California. Mr. Prada has insisted that SPL examiners are not eligible for this DFI work option noting that when anyone is on a travel status they are ineligible for that benefit (receiving every other Friday off/RDO)

ww
EXHIBIT
#1

Venchiarutti

7-22-10

7. Comments from both junior examiners and SPL office staff that Julio's recent behavior is abrasive, demeaning and irrational during office hours. He utilizes telework throughout the week at his option and discourages others from doing the same.
8. At least one new examiner is considering leaving DFI and another Senior Examiner has an application pending with another department due to the above referenced issues.
9. Each of the above Senior Examiners is very concerned that some form of discrimination may be taking place at SPL (i.e. age, race and/or gender) either intentionally or unintentionally by Mr. Prada towards each of the complainants, and possibly at least one terminated former employee.
10. Examinations are no longer viewed as an enjoyable experience by an EIC, and to the contrary, this is perceived with significant concern and stress by examiners who are chosen for an upcoming examination.

The collective goal of all of the above referenced Senior Examiners is that some form of immediate intervention takes place by senior management, precluding the continual unfortunate issues referenced above. We also ask that an informal meeting take place between all of the above examiners and you and Julio collectively concerning this matter, and that you attempt to insure that no retaliation is taken against us by Julio Prada for disclosing the comments referenced in this memorandum.

Thank you very much, Bob, for your continued efforts to make SPL a positive and productive work environment for all staff.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

DONALD LAKE,

PLAINTIFF,

vs.

) No. 37-2009-00102604-

) CU-OE-CTL

CALIFORNIA DEPARTMENT OF FINANCIAL)
INSTITUTIONS; JULIO PRADA, an)
individual; ROBERT VENCHIARUTTI,)
an individual; and Does 1-32,)

DEFENDANTS.)

VIDEOTAPED DEPOSITION OF DONALD H. LAKE, JR.

VOLUME I, PAGES 1 THROUGH 172

SAN DIEGO, CALIFORNIA

MARCH 19, 2010

Diane Delaney-Dauphine

CSR No. 3612

1 gave you a summation. In this conversation -- again,
2 I'm just focusing right now on this conversation -- what
3 did he say, if anything, about the nature of the
4 complaints by Mr. Lumen and Mr. Shaheen?

5 A. I had indicated Mr. Shaheen had to show up to
6 work on time. He was late during my examination --

7 Q. Mr. Lake, again, we'll get into that. I'm not
8 going to prevent you from speaking about that. Right
9 now so the testimony is clear what I'm trying to get at
10 is what was said in this meeting with you and
11 Mr. Venchiarutti. I understand you probably disagree
12 completely with the complaints. You know, I get that.
13 But for right now just so the record is clear if you can
14 just focus on what was said in the meeting.

15 A. Omar Shaheen had -- was not -- per Bob
16 Venchiarutti, and if I'm answering you correctly, he was
17 upset. He, meaning Mr. Shaheen, was upset that he had
18 to come to work on time because somehow we had an issue
19 of time management on the job.

20 Q. Mr. Venchiarutti said to you that Mr. Shaheen
21 was upset at you because he had to come to work on time?

22 A. That's correct.

23 Q. Okay. Did he say anything else about
24 Mr. Shaheen's -- in this conversation did he say
25 anything else to you about Mr. Shaheen's complaint?

1 A. No, not that I can recall.

2 Q. And then it sounds like there was a complaint
3 by Mr. Lumen. Did Mr. Venchiarutti in this conversation
4 tell you anything about Mr. Lumen's complaint?

5 A. No.

6 Q. All he told you was that Mr. Lumen had
7 complained also?

8 A. That's correct.

9 Q. Okay. And then you said he said something to
10 the effect of that if you continued to receive
11 complaints that your job could be at risk. Can you
12 recall anything else about -- and you said he used the
13 word "termination." Can you recall the context in which
14 he used that word?

15 A. Well, it was very admonishing, and he wanted
16 this conversation to be kept confidential. He wasn't
17 going to put it on record or make anything formal out of
18 it, but if I had continued to complain about Julio, this
19 would become a big issue.

20 Q. Okay. So I guess that also switched. We had
21 just been talking about -- you said he had been talking
22 about the complaints about Shaheen and Lumen, and now
23 you're saying that he started talking about Julio. How
24 did that come up in the conversation?

25 A. The whole conference was really about Julio.

1 Q. Okay. What was said in the conversation about
2 Julio?

3 A. Somehow Julio was not happy about my work.
4 Julio and Jeanette were not happy. I'm just going back
5 years now, but I was in shock when I was in this
6 meeting, so bear with me. It caught me completely by
7 surprise. He didn't forewarn me or anything. So,
8 again, my recollection is vague but I listened. There
9 was no dialogue.

10 Q. Okay. And what did he -- so what you're saying
11 is that you weren't telling him you were complaining
12 about Julio. He was telling you Julio and Jeanette had
13 problems with your work performance and that these two
14 examiners Lumen and Shaheen had complained about you?

15 A. That's right.

16 Q. Okay. So how did a complaint about Julio come
17 up?

18 A. That was just extemporaneous during the
19 discussion. It was just -- he brought it up.

20 Q. Okay. What do you recall that he said in that
21 regard?

22 A. He was very upset, to say the least, and he was
23 saying that he wanted -- he wanted Jeanette and Julio to
24 run the office and that I -- and I'm going back in time
25 now -- I was asked not to speak at staff meetings.

1 Jeanette was going to lead the staff, and he made it
2 very clear to me that he didn't want me to say anything
3 anymore at the staff meetings.

4 Q. Did he explain why?

5 A. He wanted Jeanette to be the next FIS and that
6 was -- yeah, that was his comment. He made comments to
7 the effect that Jeanette will be taking over of Robert
8 Mbama, and it was a shock. It was just an absolute
9 shock.

10 Q. So if I understand your testimony correctly,
11 during this meeting he said, among the other things,
12 about Oscar Lumen complaining about you, Shaheen
13 complaining about you. He also said, hey, I don't want
14 you speaking at staff meetings. I want Jeanette Barraza
15 taking over that function because she's going to be the
16 new supervisor?

17 A. That's correct.

18 Q. Okay. Anything else other than what you've
19 told us about this meeting that you recall being said
20 either by him or by yourself?

21 A. No.

22 Q. And did you say anything at all in the meeting?

23 A. I would probably have said -- and I can't
24 remember exactly but I was in shock. I mean it was
25 just --

1 Q. Did you say that? You know, I'm in shock?

2 A. I can't recall but I'm telling you what I would
3 have said at that meeting. Just absolute disbelief.

4 Q. Did Mr. Venchiarutti mention your age or your
5 race in that meeting?

6 A. No.

7 Q. ~~And did he mention~~ you said he mentioned
8 it sounds like among all these other things he mentioned
9 a complaint you had against Mr. Prada. What complaint
10 did you have against Mr. Prada at that time?

11 A. Somehow -- and I'm going back in time -- he was
12 not specific as to what he was -- his complaint was. He
13 was just nonspecific about general concerns about Julio,
14 but he was just -- I had been on recently, as I recall,
15 on an examination, and the discussions -- the
16 involvement of Julio was just extraordinarily
17 contentious. And I believe Julio sent e-mails to
18 everybody, and hopefully I'm answering your question,
19 first of all, but if I'm getting off point, tell me.

20 Julio sent e-mails to everybody during
21 everything he did or Jeanette even though Jeanette
22 wasn't even the supervisor. So he would e-mail her on
23 everything virtually and really by default or de facto
24 appointed her supervisor even before the job even was
25 offered. So Bob knew everything during this exam --

1 examination immediately previous to the meeting. And he
2 assumed that because of the issues during the
3 examination that I had some more problems with Julio.

4 Q. Okay. I think I understand where you're going.
5 You took it from that earlier contentiousness between
6 yourself and Mr. Prada regarding this exam that

7 Mr. Venchiarutti's reference was in relation to that
8 contentiousness?

9 A. Yes.

10 Q. Okay.

11 A. Because he had received e-mails on everything.

12 Q. Between -- sent by Mr. Prada?

13 A. Or Jeanette, right.

14 Q. Okay. Did you send any or was it mainly
15 going --

16 A. Mine were just responsive and it was just
17 terror. They were relentless with the phone calls and
18 it was just -- I couldn't even get the examination done.
19 It was unbelievable.

20 Q. Okay. And that's what you took to mean when --
21 the reference about complaints?

22 A. Yes.

23 Q. Okay. You said there was a second time that
24 you felt Mr. Venchiarutti threatened you with -- with
25 termination. When -- when did that second time occur?

1 A. It was during the time where I was being --
2 requesting the transfer to San Diego. It was sometime
3 in mid to late 2006. Mr. Venchiarutti indicated that if
4 it was approved basically -- and I can remember this. I
5 can remember I said -- he said if you -- if we approve
6 this transfer to San Diego, I don't want to hear
7 anything more about Julio. And if you do, your job will
8 be at risk. And I remember exactly what I said. I
9 said: Okay. Do you want me to be like a stealth
10 bomber? In other words, go under the radar. And he
11 said: No, I don't want you to be a stealth bomber or
12 stealth, whatever that was. And -- but I just don't
13 want to have anymore problems with -- with you. And
14 that would have -- that was another shock.

15 Q. Did you document that interaction in any way?

16 A. No.

17 Q. Do you recall anything else in that
18 conversation -- that second conversation between
19 yourself and Mr. Venchiarutti?

20 A. No.

21 Q. During that conversation was he talking about
22 how he wanted to make sure that you got along with the
23 people in the San Diego office?

24 A. Yes, as I recall, that might have been part of
25 it.

1 communicate with you and say he didn't want you speaking
2 with Miss -- I'm sorry. I'll just say T.

3 A. I don't recall.

4 Q. Sorry about that. We got a little bit ahead of
5 the outline. Let me go back to where we stopped which
6 is deposition Exhibit 5. We probably forgot about it,
7 including myself. This is the memo -- or e-mail dated
8 November 3rd, 2008, from Mr. Prada to yourself, cc'ing
9 Oscar Lumen, and I think it should be right on top.

10 A. Here?

11 Q. Yes. Do you recognize that document?

12 A. Yes.

13 Q. And did you receive this e-mail on or around
14 November 3rd, 2008?

15 A. Yes.

16 Q. Okay. And did you understand from receiving
17 this e-mail that Mr. Lumen was now your direct
18 supervisor?

19 A. Yes.

20 Q. Did that, in fact, occur? I know sometimes you
21 can get these e-mails, and it doesn't actually happen.
22 Did it happen that he became your supervisor at around
23 this time?

24 A. Yes.

25 Q. After November 3rd, 2008 did you ever get an

1 evaluation from Mr. Prada?

2 A. No.

3 Q. What, if anything, was Mr. Prada's role with
4 respect to supervising you after you received this
5 e-mail?

6 A. It was transparent. I was actually reporting
7 to both Julio and Oscar. I would get e-mails back from
8 both, and it really didn't change my line of authority.

9 Q. Okay. So you're saying now the big difference
10 would be -- well, let me ask you this. You say you did
11 a report, an examination report. Would that go to
12 Mr. Lumen or would it go to Mr. Prada or would it go to
13 both?

14 A. Both.

15 Q. Okay. And I guess what I gleaned from your
16 testimony was and you would get responses or comments
17 from either one of them?

18 A. Generally that's correct.

19 Q. Okay. After November 3rd did you have less
20 interaction with Mr. Prada, the same amount, or more?

21 A. Less.

22 Q. Okay. And can you estimate for us or quantify
23 for us how much less, if that makes sense?

24 A. His e-mails would go to Oscar with a copy to
25 me. So I was cc'd on most everything. I didn't -- I

1 didn't have very much phone conversations with Julio
2 after this date. There was a couple, and I had to take
3 the day off on it for a stress leave but -- during June
4 of '09, as I recall. But I was still reporting directly
5 and indirectly to both actually.

6 Q. Okay. So you're still e-mailing both of them.

7 ~~After November 3rd, 2008, did you and Mr. Prada have any~~
8 ~~meetings in person?~~

9 A. I went to San Francisco, as I recall, for a
10 meeting but not person-to-person meetings.

11 Q. Like a staff meeting?

12 A. Yes. Thank you.

13 Q. Okay. Did -- after November 3rd, 2008 with the
14 exception of that telephone conversation you just told
15 us about, did you have telephone conversations with
16 Mr. Prada?

17 A. I don't recall.

18 Q. Okay. It sounds like the conversation in June
19 of 2009 was significant, so I'll just go ahead and ask
20 you now. What happened in that conversation of
21 June 2009 that you just referenced?

22 A. I believe we had a joint conversation regarding
23 an application, and I believe Julio was a party to that.

24 Q. So there was someone else besides you and
25 Julio?

1 A. I thought it was Julio, myself and Oscar on the
2 same call. It might have been Bob Venchiarutti also and
3 I'm just -- to be very honest my -- although it's maybe
4 eight, nine months ago, it's a little vague.

5 Q. Okay. No problem. I know it would happen to
6 me if I was trying to describe something eight months
7 ago. Just do the best you can.

8 What do you recall about being said in the --
9 in this telephone conversation about the application?

10 A. It was just hearing his voice, to be honest
11 with you. It was just absolutely stressful. Just -- he
12 didn't -- to be honest with you, he didn't admonish me.
13 It was just his voice. It just triggered a panic attack
14 and it was unbelievable. It was just awful.

15 Q. Okay. So I take it from your testimony, then,
16 that he didn't say anything inappropriate at least in
17 this conversation?

18 A. Not that I can recall.

19 Q. Okay. And at least your perception is that
20 your stress reaction to him was -- was just by the fact
21 of hearing his voice?

22 A. That's right.

23 Q. Okay. Was there anything negative about the
24 conversation about the application?

25 A. Not that I can recall.

1 Q. And is that time in June or July of 2009, is
2 that the last time you spoke on the phone with
3 Mr. Prada?

4 A. I believe so, yeah.

5 Q. Okay. And prior to that, say between November
6 3rd, 2008 and that telephone call we have just
7 described, had you had other telephone calls with
8 Mr. Prada?

9 A. No.

10 Q. Say between January of 2008 and November 3rd of
11 2008 how many telephone calls would you say you had
12 between yourself and Mr. Prada?

13 A. And the time frame again, please?

14 Q. Just the year 2008 but before November 3rd. So
15 from January 1st, 2008 to November 3rd, 2008.

16 A. Extensive.

17 Q. Okay. So every week? Every month?

18 A. Well, they were -- depending on the examination
19 or whatever I was doing, there could be ten in a week or
20 -- that's on or about the time that I got the -- you're
21 talking -- okay. 2008 is what your focus is; correct?

22 Q. Right. All I'm trying to get at is the
23 difference between what happened after November 3rd,
24 2008 where it seems like very infrequent telephone calls
25 and what it was like before then.

1 A. Before this point there were extensive
2 interactions. E-mails, telephone conversations, all
3 initiated by Julio for the most part and wanting
4 immediate responses and -- but, yeah, extensive
5 interactions.

6 Q. Okay. Then after November 3rd, 2008, you
7 continued to be copied on e-mails, but there was only
8 that one telephone conversation that you can recall?

9 A. There was but there's also an interesting
10 e-mail that they inadvertently e-mailed me where Julio
11 was telling Bob exactly what to tell me, and Bob
12 e-mailed me the whole e-mail and it was confidential.

13 Q. Okay. Was that -- that was in an e-mail, not
14 through telephone?

15 A. That's correct, uh-huh.

16 Q. Okay. So it was you get an e-mail and the
17 e-mail is Julio saying: Bob, I think you should say
18 this to Mr. Lake?

19 A. That's correct.

20 Q. Do you have a copy of that e-mail?

21 A. I have it here.

22 Q. Okay. Great. Have you given that to your
23 counsel?

24 A. I apologize. I don't believe you've seen it.

25 Q. Okay. Well, then I think what we should do

1 THE VIDEOGRAPHER: The time now is 12:20.

2 We're back on the record.

3 BY MR. KNUDSEN:

4 Q. Mr. Lake, have you now told me everything you
5 can recall about that telephone conversation between
6 yourself, Mr. Prada, and Mr. Lumen in the summer of
7 2009?

8 A. It's a little vague but, yes.

9 Q. You don't have anything that would refresh your
10 recollection about that conversation?

11 A. No.

12 Q. And you're telling me the best you can recall
13 sitting here today?

14 A. Well, I am but whatever -- yeah. I mean there
15 was e-mails the same day and, you know, I just -- it's
16 all I can recall. It was very traumatic.

17 Q. Okay. Now, from your testimony I understand
18 you're currently working for the Department. What is
19 your current job title?

20 A. The same as it was. Senior financial
21 institutions examiner.

22 Q. Okay. And have -- and you've transferred back
23 to the banking division?

24 A. They transferred me, that's correct.

25 Q. Okay. And I guess we should be clear about

1 this. Do you like being back in the banking division?
2 Would you rather be at Money Transmitters? Would you
3 rather be somewhere else?

4 A. I enjoyed the work I did at Money Transmitters.
5 I want to say I thoroughly enjoyed the work, and outside
6 of with a few exceptions, maybe Bob to some extent and
7 Julio, I just loved the people. Just a wonderful work
8 environment. To the extent that I could work with the
9 people and we had no problems, I don't believe, in terms
10 of rank and file, but it was in the management area that
11 it was problematic.

12 Q. Okay. And understanding your feelings about
13 that, you know, are you glad you're now in the Banking
14 Division? Would you want to be back in the Money
15 Transmitters Division? What are your thoughts on that?

16 A. I -- if Julio Prada was out of that equation, I
17 absolutely could see myself back in the Money
18 Transmitters environment.

19 Q. Okay. And -- but in the situation that exists
20 as of today, are you -- you know, has it been a good
21 move for you to go into banking, or do you feel it's
22 been a bad move?

23 A. I think it's been wonderful, and I directly
24 report to Bill Schott and -- actually it's been a month
25 now and three days, and it's been very good.

1 Q. Okay. And you get along well with your direct
2 supervisor Mr. Schott?

3 A. It's an outstanding relationship.

4 Q. Okay. And you have a second line supervisor
5 now -- now that you've transferred back to banking?

6 A. You're asking me do I have a second line
7 supervisor?

8 Q. Yeah.

9 A. I don't.

10 Q. Okay. And, you know, I know it can be very
11 difficult to ask you to look in the crystal ball and
12 predict the future. But right now sitting here today
13 what are your current work plans?

14 A. I don't know. I really don't.

15 Q. You don't have -- sitting here today you don't
16 have any plans like, okay, you know, when I hit X year,
17 I'm going to retire, and I'm going to do something like
18 live in Hawaii or, you know, whatever it might be, or
19 I'm going to stay working at the Department until I'm
20 88.

21 A. Okay. I see what your point is. I would like
22 to work for ten more years in some capacity with the
23 State where I feel valued and where I can contribute. I
24 love working for the State. I mean it's just -- I feel
25 honored just to be here. Maybe in front of you right

1 Q. You're examining a business that already does
2 money transmissions.

3 A. The examination itself is for the primary
4 review of the Board of Directors of the business and for
5 the Commissioner of the Department, for their
6 confidential review and to give them an examiner review
7 of the safety and soundness of their business.

8 Q. So is it to protect the company or is it like
9 to protect the California consumers, or is it just make
10 sure that the whole business works or a combination?

11 A. As a regulator our responsibility is to make
12 sure -- ensure that the safety and soundness of that
13 business is to remain relative to the financial code,
14 the State banking law. So what we do is we ensure that
15 they are complying with the law and looking at all
16 elements of that -- of that licensee, and we have a
17 rating system. Capital asset management, earnings and
18 operations. That would be for Money Transmitters. It's
19 a little different for the banks, and that's the report
20 card we give them.

21 The purpose of that, again, is for the Board's
22 review, the board of the licensee, and for our
23 commissioner to review, and it is completely
24 confidential.

25 Q. Okay. So the reports that go out, these

1 have I ever seen anybody in my career that didn't meet
2 the de minimis of the job requirements. So typically
3 when they come on board we have some very, very high
4 skilled people, and I'm just -- I'm proud to work with
5 these people.

6 Q. And I have heard in looking over this case the
7 ~~terms like in one of these reports of examination~~
8 there's sort of a compliance aspect to it and a
9 financial aspect. Does that make sense to you?

10 A. That's right.

11 Q. Okay. Can you explain to us what the
12 compliance aspect involves?

13 A. Basically that's one of the areas I look at,
14 and that would be -- I want to say AML/BSA, Anti-Money
15 Laundering Bank Secrecy Act.

16 Q. And so what does the examiner do with respect
17 to that, that compliance aspect?

18 A. For Money Transmitters -- and I'm not speaking
19 for the bank, bank side -- it's a thorough review really
20 of ensuring that the licensee is complying with federal
21 laws. And that's the primary regulator involved in
22 this, Financial Crime Enforcement Network or FCEN and
23 all the laws promulgated under that. So reviewing
24 reports that need to be made relative to alleged money
25 laundering. Just a number of issues involved.

1 Q. What about the financial side, what's that
2 aspect of the report?

3 A. Could you clarify that, please.

4 Q. Sure. Maybe it's myself tripping over the
5 concept. You know, you said there seems like there's
6 compliance aspect and financial aspect when you're doing
7 an examination, and you described very nicely the
8 compliance aspect. I'm just trying to get you to do the
9 same thing with how you view the financial aspect when
10 you're doing one of these examinations.

11 A. Okay. Thank you. Each licensee is really
12 looked at differently based on the size, composition and
13 the length of duration the licensee has been in
14 operation. Every licensee is different, and so
15 financial solvency is the primary key. We have a
16 de minimis of \$500,000 tangible net worth required per
17 the financial code. However, most of our licensees are
18 given a higher threshold under conditions of approval,
19 and that generally starts at a million dollars today.
20 Even though the financial code only requires 500,000
21 tangible net worth.

22 So our review would ensure that they maintain
23 those minimum guidance as per the conditions of approval
24 which really is a stipulation that we're going to give
25 you this license, but you need to maintain a litany of

1 financial criteria. 1 through 20, if you will. Minimum
2 liquid assets of X amount. So it really is a very
3 subjective criteria.

4 Q. As an examiner when you're doing the
5 examination of one of these companies, you end up doing
6 both the compliance and the financial at the same time,
7 or do you do it at a different time?

8 A. Concurrent.

9 Q. Okay. And, you know, another term -- I know
10 you used it as the examiner in charge. What does that
11 mean in connection with Money Transmitters, an
12 examination done through Money Transmitters?

13 A. That person is primarily responsible for the
14 completion of the examination. Their name goes on the
15 examination, and they're charged with the responsibility
16 of making sure that all the components of that rating
17 system that we just described were complied with.

18 Q. So the examiner in charge or EIC is basically
19 responsible for the entire report that he or she signs
20 off on?

21 A. Thank you. Yes.

22 Q. Okay. And then it looked like from seeing a
23 couple of these -- as you said, there were several
24 sign-offs. So what happens when the examiner in charge
25 in Money Transmitters gives the report to the next

1 level? I mean, do they make changes? Do they just sign
2 off on it? How does that work?

3 A. Well, I can tell you how it normally works, but
4 with Julio and with me it would typically be heavily
5 criticized, and there was never really a case where he
6 didn't highly criticize my work. I rarely got any
7 comment in a positive way, but in his case I would

8 submit the report to him when I was directly working for
9 him. He would take many days, 30 days, well beyond
10 that, to get back to me, and typically it was highly
11 critical.

12 Q. When you say "highly critical," what do you
13 mean? Like he would have corrections or --

14 A. He would have a laundry list of issues, and for
15 the most part they were nonmaterial in my view or
16 immaterial, but they had -- on one occasion he spent a
17 half an hour on the phone yelling at me because the
18 fonts on the top left-hand corner of the page even
19 though there were like four font, somehow it was wrong
20 to him. And he -- because each page he wanted changed,
21 he just felt the entire examination was unsatisfactory,
22 and he said, you know, never to submit him pages like
23 this. He could have done it himself in five seconds,
24 changed these little page. I couldn't see the fonts. I
25 mean it was so small, you know, I couldn't see them.

1 But he just decided to enumerate that, and that was the
2 extent of that.

3 Q. What examination was that? Do you recall the
4 company?

5 A. It would have been in early '06 and I don't
6 recall.

7 Q. Okay.

8 A. It was just --

9 Q. And we'll get into the specifics again when we
10 get into the specifics of your claims of harassment,
11 discrimination.

12 A. Right, uh-huh.

13 Q. Just talking about how things worked. So
14 normally with Mr. Prada you turned it into him. He
15 would criticize it. Then what would happen? Would you
16 make the changes and resubmit it, or would something
17 else happen?

18 A. I would do the best I could and then resubmit
19 it, that's correct.

20 Q. Okay. And then what would happen when you
21 resubmitted it?

22 A. He many times would just e-mail me and let me
23 know how unsatisfactory it was and that was it. Many
24 times I got verbal, you know, phone calls and
25 admonitions about apparently deteriorating work product.

1 know, that you answered, no, I hadn't taken a leadership
2 challenge at this panel?

3 A. Well, the same individual that was involved in
4 the panel was Scott Cameron, and he knew -- he was the
5 one who's -- you know, two people at any rate in his
6 region that I was applying for that I, you know, was

7 involved in it. So he was involved in a number of those
8 panels. He was part of the executive committee of which
9 Mr. Venchiarutti is, and by not being allowed to take
10 that course, it tied my hands for promotions.

11 Q. Do you know if Oscar Lumen had taken that
12 course prior to being promoted?

13 A. I don't believe he did.

14 Q. How about Mr. Prada, do you know if he had
15 taken that course prior to being promoted?

16 A. I can't answer that.

17 Q. And how about Mr. Venchiarutti, do you know if
18 he had taken that course prior to --

19 A. I have no idea.

20 Q. Okay. Then how about do you know in that
21 interview where Scott Cameron was the decision maker, do
22 you know if the person who did receive the promotion had
23 taken the leadership challenge course?

24 A. No. No, I don't believe either one of them had
25 at that point, Chris Eaton or Aaron Prosperi.

1 pay for it. I just needed to take time off, and I
2 assumed they would pay at least maybe for that, but it
3 all would benefit the Department.

4 Q. So you were asking to take like a workday, like
5 a day that would be credited for work for the training?

6 A. Yeah, I would think so.

7 Q. Okay. I would like to mark as -- I believe
8 it's deposition Exhibit 6. This is something that looks
9 like some sort of training log for Donald Lake.
10 Mr. Lake, please take however long you need and let me
11 know if you recognize this document.

12 A. I do.

13 (Exhibit 6 was marked for identification.)

14 BY MR. KNUDSEN:

15 Q. Okay. What is it?

16 A. This comes from our training profile within our
17 Department. It's on a database and this -- I think it
18 fairly -- I could look at it, but, I guess, from all the
19 training I've had in almost 28 -- well, 28 years, it
20 would have been recapitulated on these forms.

21 Q. Okay. So I think, if I understand that, what
22 you're saying is that this document, as far as you know,
23 states the training you received at the Department?

24 A. Right. Yes.

25 Q. Look at 2009. It looks like there was -- like

1 you attended a class that was 16 hours in San Francisco.

2 Is that accurate?

3 A. I'm sure all of these are accurate.

4 Q. Just focusing on this BSA/AML examination
5 manual training; is that accurate?

6 A. Yes.

7 Q. So if I'm reading this correctly, the training
8 occurred on December 2nd and December 3rd, 2009?

9 A. I'm going to have to say yes. I would have to
10 go into my calendar, but I'm sure that's correct. I
11 don't question this.

12 Q. On those days -- I'm not going to go through
13 this all. I'm just trying to make sure I understand the
14 form. On those days you would be -- those would be paid
15 days, those training days?

16 A. Yes.

17 Q. And it looks like the location was in
18 San Francisco. They would fly you up to San Francisco
19 on their dime?

20 A. Yes.

21 Q. And then the vendor is IRS which indicates to
22 me at least, you know, someone from the Internal Revenue
23 Service gave the class?

24 A. Yes.

25 Q. To your knowledge -- and, again, I don't want

1 to go through all of these -- but the training listed on
2 here, you would have been paid for attending that
3 training?

4 A. Yes.

5 Q. And if you had to go somewhere to attend the
6 training, they would have paid you either mileage or
7 airfare to travel to the training?

8 A. Yes.

9 Q. Were you ever required to stay overnight at the
10 training?

11 A. Yes.

12 Q. Would they pay for your hotel stay?

13 A. Yes.

14 Q. It looks like you've received some training on
15 harassment and discrimination. Do you recall receiving
16 training on harassment and discrimination?

17 A. Can you refer to that date.

18 Q. Well, it's listed on here. I mean, for
19 example, they have "Preventing Sexual Harassment,
20 July 24, 2007." They have, like, a diversity workplace
21 training, September 19, 2005. And, you know, I know
22 sometimes they'll have things, like in our department
23 they'll have things that wouldn't necessarily show up on
24 a training manual and have discussions on it. I'm not
25 really focusing on the form right now. I'm just saying

1 A. U.S. Tours. I was coordinating that. I mean
2 it was just like they gave me responsibility, and I felt
3 part of the team. And generally, moving John Rockwell
4 over, I felt somewhat part of a team, but I would
5 interact with Julio not very often in 2004. I mean it
6 was amazing. They gave me a lot of latitude, and it was
7 almost like a welcome aboard 2004.

8 Q. Okay. When you say you would interact with
9 Julio not all that often and just talking about
10 face-to-face interactions now, would you see him once a
11 month? Would you see him once a week? I'm just trying
12 to get a sense, and I know every week and every month
13 would be different. I'm just trying to get a general
14 picture.

15 A. Well, I was in San Francisco fairly frequently
16 during 2004, and it was a very cordial relationship
17 between Julio and I to the extent that I would even say
18 I called him a friend and -- or more importantly that he
19 called me a friend. And, yeah, maybe once a month we
20 would interact, and it was -- aside from the John
21 Rockwell thing, I could say that I somewhat liked him
22 except I did fear him because of what I saw what was
23 going on with John Rockwell.

24 Q. Okay. We'll get into the Rockwell thing.
25 Right now I'm just trying to focus on frequency of

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DONALD LAKE,

PLAINTIFF,

vs.

) No. 37-2009-00102604-

) CU-OE-CTL

CALIFORNIA DEPARTMENT OF FINANCIAL)
INSTITUTIONS; JULIO PRADA, an)
individual; ROBERT VENCHIARUTTI,)
an individual; and Does 1-32,)

DEFENDANTS.)

VIDEOTAPED DEPOSITION OF DONALD H. LAKE, JR.

VOLUME II, PAGES 173 THROUGH 390

SAN DIEGO, CALIFORNIA

APRIL 9, 2010

Diane Delaney-Dauphine

CSR No. 3612

1 Q. And -- okay. Has Mr. Venchiarutti ever made
2 any comments that you thought were derogatory about your
3 race or ethnicity?

4 A. No.

5 Q. Has he ever made any comments you felt were
6 derogatory or inappropriate about your age?

7 A. I don't recall.

8 Q. Has he ever used profanity towards you?

9 A. No, sir.

10 Q. And how would you say in general you got along
11 with him?

12 A. I thought I got along with him well. I didn't
13 understand why, you know, he had problems or, you know,
14 why there was an issue from his perspective, but I
15 thought it was a fairly good relationship.

16 Q. Did you ever talk to him about your perception
17 that he had said he would terminate you if you
18 complained about Mr. Prada?

19 A. No.

20 Q. Why not?

21 A. This is not a department to do that. It's
22 just -- it's very well-known that, you know, retaliation
23 can occur, and I didn't want to even get involved in
24 this.

25 Q. Did it ever -- did you ever think there was

1 Mr. Venchiarutti any bad consequence; correct?

2 MR. KODAM: I'm going to object as vague and
3 ambiguous. If the client understands, he can answer.

4 THE WITNESS: Actually the consequences
5 occurred in 2009. I was pulled out of the field mid May
6 2009. All I did for the next nine months was process
7 Money Transmitter applications. I was scheduled to be
8 on a job in May 2009. I was told by Oscar Lumen through
9 Bob Venchiarutti that I was no longer going to be
10 working in the field and that I was going to be
11 specially assigned to process money transmission
12 applications.

13 BY MR. KNUDSEN:

14 Q. When you say through Bob Venchiarutti, what do
15 you mean?

16 A. It had come from Bob Venchiarutti. Oscar was
17 communicating what he had just been told from Bob that I
18 was no longer going to be in the field.

19 Q. And did Mr. Lumen say why?

20 A. He asked me if I was interested to talk to Bob.

21 Q. Did you?

22 A. No.

23 Q. Why not?

24 A. I didn't do it then. I asked him several times
25 from that point on how long do you think I'll be doing

1 this? And he said just for as long as we think we need
2 to have you there, and it literally was going to go on
3 for perpetuity based on what Bob had mentioned to me.

4 Q. Well, did he ever say this is going to go on
5 for perpetuity?

6 A. He did not give me a drop dead date.

7 Q. Isn't it correct that Mr. Lumen used to do the
8 applications, Money Transmitter applications?

9 A. They were given to a number of people.

10 Q. Including Mr. Lumen?

11 A. I don't know that.

12 Q. And you had done them previously?

13 A. I had done some, that's correct.

14 Q. And applications are relatively high level work
15 in Money Transmitters because that's where you decide
16 whether or not a company is going to be entrusted with
17 being able to do this sort of stuff?

18 A. You're telling me or you're asking me?

19 Q. I'm asking you. Do you agree with that?

20 A. No.

21 Q. Why not?

22 A. It's a very rudimentary process, and any
23 examiner from the first year to a senior level can do
24 any kind of applications like this.

25 Q. Well, do first year examiners do it?

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

**CERTIFIED
COPY**

DONALD LAKE,

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CALIFORNIA DEPARTMENT OF FINANCIAL
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VOLUME III, PAGES 391 THROUGH 591

SAN DIEGO, CALIFORNIA

JULY 2, 2010

Diane Delaney-Dauphine

CSR No. 3612

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1 at Money Transmitters?

2 A. That's the only specific one I can recall.

3 Q. And have you told me everything you can recall
4 about conversations relating to Miss Barraza's promotion
5 between you and decision makers?

6 A. I believe so.

7 Q. Okay. And then you said there were comments by
8 Mr. Venchiarutti that were preferential to Hispanics.
9 What do you mean by that?

10 A. I believe that his comments regarding Jeanette
11 and the promotion that was upcoming and all the issues
12 we've previously talked about, my attending staff
13 meetings and Jeanette being in charge of those meetings
14 was very clearly adverse to me.

15 Q. And just so the record is clear, so you're
16 saying preferential to Hispanics you're talking about
17 that conversation we described -- you testified about
18 where he said something like you're not to talk at these
19 meetings and Miss Barraza is to lead the meetings?

20 A. Yes, sir. And I believe that's coming from
21 Julio through Bob Venchiarutti. The tenor was from Bob
22 as per my discussions with Julio as though he was just
23 echoing what Julio had told him.

24 Q. Okay. Any other comments by Mr. Venchiarutti
25 that you felt were preferential to Hispanics other than

1 Q. Okay. Well, luckily for everyone involved I
2 managed to copy that other e-mail. I would like to mark
3 as deposition Exhibit 61. This was another e-mail
4 produced by plaintiff. This is from Julio Prada to
5 Donald Lake. It's also Friday, April 27th, 2007, but
6 this one is at 9:48 a.m. and its subject is also Banif
7 Report.

8 MR. KODAM: How fortuitous of you.

9 (Exhibit 61 was marked for identification.)

10 BY MR. KNUDSEN:

11 Q. Mr. Lake, please take however long you need to
12 review this document which we have labeled as deposition
13 Exhibit 61 and let me know if you recognize it.

14 A. I do.

15 Q. And is this the one that you were terming as an
16 admonishment?

17 A. I did.

18 Q. Okay. And that indicates to me that you think
19 there is something inappropriate about this e-mail; am I
20 correct?

21 A. Yes.

22 Q. Okay. Could you please describe for us what
23 you believe about this e-mail is inappropriate.

24 A. Well, it's just -- it's just so unfortunate
25 that within -- I don't know what the time frame is.

1 It's the same -- this almost reflects his personality.
2 On the one hand, he attempted to make a backhanded
3 compliment on, as you call, No. 60. And on 61 he
4 followed it right up with a criticism, but even says in
5 here "I think you're a stronger writer." There's not
6 any attempt to say you're a strong writer, but he says
7 he cannot continue to make these clerical corrections.

8 These were -- if, in fact, they were clerical -- and I
9 didn't have any chance to review it -- they were so
10 minor. They are so insignificant. I remember -- and it
11 may have been this exam that it was -- it could have
12 been right after this one, this e-mail. He was on the
13 phone with me. Must have been a half an hour talking to
14 me about the font of a letter on the top left-hand
15 corner of the page that I couldn't even read. It was
16 like a font -- the "E" -- excuse me. It was a four font
17 or a six font, and you had to blow it up under a
18 magnifying -- under a Word document even to see it, and
19 he went -- instead of changing them himself, he went
20 through each and every one with me to increase the font.
21 He said it's unacceptable at a four font or a six font,
22 and he had to change it to an eight font. And he said
23 licensees were complaining about the fonts of this
24 little part of the page that nobody ever cared about.
25 Nobody had ever said anything about, but apparently what

1 he's talking about here in terms of page numbers,
2 transposed financial information that's what we do.

3 When we finish an exam in the field, we send it
4 to our supervisor who then makes any amendments or
5 changes. And then he or she then sends it up to be
6 finalized. And what Julio was telling me in this is
7 he's not going to do that. It's not his job to make any

8 changes, to make any corrections at all, and that he
9 made it clear to me unless it's an absolutely perfect
10 examination, which there is no such thing, it's beneath
11 him to make any changes, especially when it comes to me.

12 Q. And that was your perception from reading this
13 e-mail?

14 A. Well, I believe he followed it up on the phone
15 with me. So this is a chronology of what would happen.
16 This is an exception. He said it was a good report. I
17 couldn't even believe it when I saw this, when I saw
18 that it was a good report. I thought maybe I had read
19 it wrong, and then suddenly I get this next one that
20 says basically I made a mistake, meaning Julio. It's
21 really a bad report and, you know, you can't -- you
22 cannot do this again. It was like taking a child out
23 and just berating a child, and I do recall there was a
24 phone call after this to reiterate his -- he wasn't just
25 unhappy. It was like I had intentionally done this. He

1 admonished me and it was awful.

2 Q. Well, don't you think that a supervisor could
3 say something to the effect of, hey, you're a good
4 writer, but, you know, I got this brief or report or
5 whatever and, gee, the headers were wrong, the margins
6 were wrong, the page numbers weren't right, transposed
7 financial information. Sure, I can correct it, but I

8 shouldn't have to be. There should be enough attention
9 to detail that a person who originally sent it to me
10 that these sort of irritating little mistakes aren't
11 made. Don't you think the two of them -- those two can
12 exist simultaneously?

13 MR. KODAM: Objection. The question is
14 compound, convoluted as well as it's an incomplete
15 hypothetical. The client can answer.

16 THE WITNESS: Well, I appreciate it and thank
17 you and -- but I'm not going to disagree with your
18 question. It's not so much how he said things. It's
19 the way he said things and his disposition, his
20 demeanor. He would have a phone call that could have
21 said you need to do this to reach this level of
22 competency, but it was typically demeaning. He didn't
23 even say in here that you're a strong writer. He
24 questioned it. He said I think you're a stronger
25 writer. I'm not reading this -- paraphrasing every

1 word, but he's telling me he cannot continue to even
2 make corrections, and he's not going to do it. And I
3 think that's what he reiterated to me over the phone.
4 So in the span of 9:07 to 9:48, it went from good
5 report, please review it for this little header thing
6 and this was PITC 594 is not even anything we use. It
7 was part of this innocuous part of the examination, but

8 apparently the font was a four font and it should have
9 been six or something, and it would have taken him a
10 second to change it. But instead, you know, he made it
11 -- a note of it in this report and then follows it up
12 with -- and even -- I mean I don't even know how you can
13 do this and then, you know, half an hour write this and
14 said, by the way, I was wrong. It really is a bad
15 report in terms of, you know, these small little
16 technical issues.

17 BY MR. KNUDSEN:

18 Q. Well, does he say anywhere in this e-mail it
19 was a bad report?

20 A. You can read it. I think he's telling you. "I
21 think you are a stronger writer." In my view he was
22 telling me that my writing is substandard or weak.
23 Excuse me. And he's telling me he will not and cannot
24 continue to make these corrections, and I do believe he
25 followed that up with a phone call.

1 comfortable, and it creates a positive work environment.
2 That's not what happened. This was very demeaning. The
3 e-mails, the follow-up by saying, by the way, this is
4 exactly what I think you're -- that you did. It was not
5 what he said. It was how he said it, and he left it --
6 and I'm going back to even a phone call. He left it as
7 though I was five years old, and it was very demeaning,

8 and this is the thread of what happened consistently
9 basically after 2005, and it got progressively worse.
10 Instead of saying what you just said with a pleasant
11 overtone and a positive demeanor, it was just the
12 opposite.

13 MR. KODAM: Counsel, can we take a break?

14 MR. KNUDSEN: Of course.

15 THE VIDEOGRAPHER: The time now is 3:19. We
16 are off the record.

17 (Recess.)

18 THE VIDEOGRAPHER: The time now is 3:29. We
19 are back on the record.

20 MR. KNUDSEN: I would like to mark as
21 deposition Exhibit 62, this is an e-mail dated
22 October 20, 2005 from Julio Prada to Donald Lake.

23 (Exhibit 62 was marked for identification.)

24 BY MR. KNUDSEN:

25 Q. Mr. Lake, please take however long you need,

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("AGREEMENT") is made and entered into by and between plaintiff Donald Lake ("PLAINTIFF"), and defendants California Department of Financial Institutions ("DFI"), Julio Prada, and Robert Venchiaruti (collectively "DEFENDANTS")

RECITALS

- A. PLAINTIFF is a Senior Financial Institutions Examiner employed by the DFI.
- B. PLAINTIFF has commenced an action against DEFENDANTS in the Superior Court for the County of San Diego entitled *Donald Lake v. California Department of Financial Institutions; Julio Prada, an individual; Robert Venchiaruti, an individual; and Does 1-32*, Case No. 37-2009-00102604-CU-OF-CTL (the "ACTION"). In the ACTION, PLAINTIFF asserted various causes of action against DEFENDANTS, including age and race harassment, age discrimination, race discrimination, and retaliation.
- C. Other than the ACTION, PLAINTIFF has no lawsuits pending against DEFENDANTS or any current or former employee of DFI before any state or federal court and also has no workers' compensation or other administrative proceedings against DEFENDANTS or any current or former employee of DFI.
- D. A mediation was held on October 26, 2010 and the parties entered into a written Stipulation for Settlement. A copy of the Stipulation for Settlement is attached to this AGREEMENT as Exhibit A. Pursuant to the terms of the Stipulation for Settlement the parties' settlement is "to be formalized in a settlement agreement." This AGREEMENT is the "settlement agreement" anticipated by the Stipulation for Settlement.

E. DEFENDANTS continue to deny in every particular way, each and every claim, allegation or contention made by PLAINTIFF in connection with the ACTION. However, in the interests of avoiding further litigation and without admitting any liability or wrongdoing whatsoever, the parties desire to fully and finally settle, resolve, compromise and discharge all differences, controversies or claims between and among them.

NOW, THEREFORE, in consideration of the terms, conditions, and mutual covenants and promises contained herein, the parties agree as follows:

AGREEMENT

1. Denial of Liability; Sufficiency of Consideration

Each party expressly agrees that neither the consideration received pursuant to this AGREEMENT, nor this AGREEMENT itself, shall ever be taken or construed to be an admission on behalf of any party of any liability or wrongdoing of any nature. The sufficiency of the consideration for this AGREEMENT is acknowledged by all parties. This AGREEMENT is the result of a negotiated compromise, which the parties believe and acknowledge to be fair and equitable.

2. Dismissal of the ACTION with Prejudice

PLAINTIFF agrees to dismiss the ACTION with prejudice as to all defendants.

PLAINTIFF's counsel shall forward to the Office of the Attorney General, counsel for DFI, within seven (7) days from the date this AGREEMENT is executed by all parties, an executed Request for Dismissal, dismissing the entire ACTION with prejudice as to all defendants, including, but not limited to the California Department of Financial Institutions, Julio Prada, and Robert Venchiarutti.

3. PLAINTIFF Agrees Never To Return To The Money Transmitters Division And To Never Seek A Promotion For A Position Within The Money Transmitters Division

PLAINTIFF currently works in DFI's Banking Division in San Diego. PLAINTIFF agrees that he will never seek to transfer to DFI's Money Transmitters Division. PLAINTIFF further agrees that he will never apply for or accept any position within the Money Transmitters Division and PLAINTIFF will never apply for a promotion to any position within the Money Transmitters Division, including, but not limited to, Financial Institutions Manager. The DFI has no obligation to consider PLAINTIFF for any position within the Money Transmitters Division, including any promotional opportunity within the Money Transmitters Division. Should PLAINTIFF seek to transfer to the Money Transmitters Division or apply for any position within the Money Transmitters Division, including a promotion, the parties agree that this AGREEMENT shall constitute good cause for the DFI to reject Plaintiff's application for a transfer or application for a position or promotion within the Money Transmitters Division or to terminate any appointment to a position within the Money Transmitters Division.

4. Settlement Proceeds

The DFI agrees to pay to PLAINTIFF the sum of Twenty-Seven Thousand dollars (\$27,000.00).

The DFI will use its best efforts to deliver to PLAINTIFF's counsel within ninety (90) calendar days from the date PLAINTIFF signs the AGREEMENT and delivers the original signed AGREEMENT as well as an executed Payee Data Record form to the Office of the Attorney General, the Settlement Proceeds in the total amount of Twenty-Seven Thousand dollars (\$27,000.00) by providing a check or warrant, payable to "Donald Lake."

The check or warrant shall be sent to PLAINTIFF's counsel only after the Office of the Attorney General has received fully executed: (1) original(s) of this AGREEMENT, (2) completed Payee Data Record form(s), and (3) a fully executed request for dismissal of the entire ACTION with prejudice as to all defendants. Payment of the check or warrant shall only be made after the Department of Finance and State Controller's Office approve the payment.

No amount of money will be withheld from the check or warrant for tax purposes. PLAINTIFF expressly agrees to be solely responsible for any tax liability which may result from payment of this sum, including penalties and forfeitures arising from such payment, and expressly acknowledges that the State of California and/or the California Department of Financial Institutions are not liable in any way for any tax consequences of this AGREEMENT. PLAINTIFF understands and acknowledges that the State of California and/or the California Department of Financial Institutions are required to report the payment of these settlement proceeds to appropriate taxing authorities, including the Internal Revenue Service and the Franchise Tax Board.

5. General Release by PLAINTIFF of ALL DEFENDANTS

PLAINTIFF, for himself, his heirs, executors, administrators, assigns and successors, fully and forever releases, acquits, and discharges the State of California, California Department of Financial Institutions, and all their predecessor and successors in interest, and all their divisions (including but not limited to the Money Transmitters Division), departments, subdivisions, sections, and each of their past, present, and future managers, supervisors, examiners, staff, and other employees, agents, representatives, and attorneys and their past, present, and future beneficiaries, heirs, executors, administrators, assigns, representatives, and attorneys and Julio Prada and his past, present, and future beneficiaries, heirs, executors,

administrators, assigns, representatives, and attorneys and Robert Venchiarutti and his past, present, and future beneficiaries, heirs, executors, administrators, assigns, representatives, and attorneys from any and all claims, causes of action, obligations, damages, liabilities, costs, attorneys' fees, judgments, liens, and indebtedness of any nature whatsoever, whether legal, equitable, administrative, or otherwise and whether or not now known, suspected or claimed, which heretofore existed or now exist, including, without limitation on the generality of the foregoing, any and all claims which relate to, arise from, or are attributable to PLAINTIFF's work with the California Department of Financial Institutions, his work at the Money Transmitter and Banking Divisions, his efforts to obtain promotion to Financial Institutions Supervisor or Financial Institutions Manager, any incident which occurred during the time he was supervised or his work was overseen by Mr. Prada, any incident which occurred during the time Mr. Venchiarutti was in his chain of command, his claims that he was harassed, discriminated against and retaliated by Mr. Prada and/or Mr. Venchiarutti, and any action by the DFI, Mr. Prada, Mr. Venchiarutti, or any other employee of DFI which PLAINTIFF views as discriminatory, retaliatory, harassing, violative of Title VII of the Civil Rights Act of 1964, or the California Fair Employment and Housing Act, causative of emotional distress, or otherwise wrongful, as well as all matters which were or could have been raised in this ACTION.

PLAINTIFF understands and acknowledges that he is waiving any and all rights he may have had, now has, or in the future may have, to pursue any and all remedies available to him under any tort or employment-related causes of action relating in any way to his work at the DFI, including, but not limited to, claims of age and race discrimination, age and race harassment, unlawful retaliation, emotional distress, failure to pay wages, benefits, credit compensatory time off, or other compensation of any sort, failure to promote, or other wrongful conduct and/or

violation of any statutes, rules, regulations, or ordinances, whether federal, state, or local, including, without limitation, claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 1983, and the California Fair Employment and Housing Act.

This release does not apply to future claims arising from acts or omissions of DEFENDANTS occurring after the date this AGREEMENT is fully executed.

6. Waiver of Civil Code Section 1542

PLAINTIFF understands and expressly waives any rights or benefits available to him under Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

PLAINTIFF understands and acknowledges that the significance and consequence of this waiver of Section 1542 of the California Civil Code is that even if he should suffer additional damages relating in any way to any claim released in this AGREEMENT, including any related in any way to this ACTION or his work at the California Department of Financial Institutions, his failure to obtain a promotion to Financial Institutions Supervisor or Financial Institutions Manager, PLAINTIFF will not be permitted to make any claim for those damages. Furthermore, PLAINTIFF acknowledges he intends these consequences even as to claims for damages that may now exist as of the date of this AGREEMENT but which are not known to exist, and which, if known, would materially affect her decision, to execute these releases, regardless of whether her lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

7. Limited Release By DEFENDANTS Of PLAINTIFF

DEFENDANTS release PLAINTIFF, his agents, representatives, and attorneys from any and all claims, causes of action, damages, liabilities, costs, and attorneys' fees relating to or arising from the ACTION and PLAINTIFF's work at the Money Transmitter Division of DFI.

This limited release does not release PLAINTIFF from any tax liability he may have by virtue of his employment with the DFI, or from any claims, liabilities, obligations, or debts by any agency of the State of California other than DFI.

8. Change In Fact

The parties to this AGREEMENT fully understand and declare that if the facts from which this AGREEMENT are found hereafter to be different from the facts now believed to be true, the parties hereto assume the risk of such possible differences in fact, and hereby agree that the AGREEMENT shall be, and will remain, effective notwithstanding such difference in fact.

9. Warranty

PLAINTIFF warrants and represents that he has no pending complaints or charges against DEFENDANTS or any of DFI's current or former employees with any state or federal court or any local, state, or federal agency based on any events occurring prior to the date of execution of this AGREEMENT.

10. Promise Not To Sue

PLAINTIFF promises and agrees that he will never sue the State of California, California Department of Financial Institutions, their predecessors and successors in interest, and all their subdivisions, their past, present, or future managers, supervisors (including, but not limited to, Julio Prada and Robert Venchiarutti), examiners, staff, and other employees, agents, attorneys, or representatives or otherwise institute or participate in any legal or administrative proceeding

against the State of California, California Department of Financial Institutions, their predecessors and successors in interest, and all their subdivisions or their subdivisions or any of their past, present, or future managers, supervisors (including, but not limited to, Julio Prada and Robert Venchiarutti), examiners, staff, and other employees, agents, attorneys, or representatives relating in any way to any claim released in this AGREEMENT including, but not limited to, his work at DFI or efforts to obtain promotion up to the present date, his supervision by Mr. Prada, his interactions with Mr. Prada and/or Mr. Venchiarutti, his work for the Money Transmitters Division, the events at issue in this ACTION and related events which occurred prior to the signing of this AGREEMENT.

11. This AGREEMENT Does Not Limit Or Expand The Law On Retaliation

The parties acknowledge and agree that nothing in this AGREEMENT shall limit or expand PLAINTIFF's rights in the future under state and federal anti-retaliation statutes, including Title VII of the Civil Rights Act of 1964 and the California Fair Employment and Housing Act.

12. Mutual Non-Disparagement

The parties have entered this AGREEMENT to put their disputes behind them and to resolve the ACTION with no admission of liability or wrongdoing on behalf of either PLAINTIFF or DEFENDANT. Each party agrees that he, she, or it will not volunteer information disparaging the other party, including, but not limited to, agreeing not to contact the media about the ACTION or its resolution.

The parties understand and acknowledge that DFI will comply with its legal obligations in disclosing or reporting terms of this Settlement. In particular, the parties understand and

acknowledge that the DFI may be required to release information pursuant to the Information Practices Act of 1977 (Civil Code section 1798, *et seq.*), the Public Records Act (Government Code section 6250 *et seq.*), the Brown Act (Government Code section 54940 *et seq.*) or other applicable provision of law.

13. PLAINTIFF and DEFENDANTS to Bear Their Respective Attorneys' Fees And Costs In The ACTION

Each party shall bear his or its costs and attorneys' fees in connection with the ACTION herein and all matters arising out of or pertaining thereto.

PLAINTIFF and DEFENDANTS each agree that they shall each bear their own respective costs and attorneys' fees in connection with the ACTION and all matters arising out of the ACTION. The settlement proceeds set forth in paragraph 4 constitute the full amount of compensation under this AGREEMENT to any party with respect to this ACTION. All parties acknowledge and agree that they have no right to seek to recover any sum from any other party for costs and attorneys' fees relating in any way to the ACTION and expressly waive any right any of them may have to such attorneys' fees and costs.

14. Voluntary Consent To Agreement

Each party declares that he or it knows and understands the contents of this AGREEMENT and that this AGREEMENT has been executed voluntarily and free from duress or undue influence on the part of any person or entity.

15. Agreement Reviewed With Legal Counsel

Each party declares that they have been given the opportunity to speak with their respective counsel relating to this Settlement and have had the opportunity to confer with their respective attorneys regarding the meaning of the terms and provisions of this AGREEMENT.

Having had the opportunity to speak with counsel, all parties agree to be bound by the terms and provision of this AGREEMENT.

16. Period To Consider Terms of Agreement and Release

PLAINTIFF acknowledges that this AGREEMENT and Release was presented to him on December ____, 2010 and that he is entitled to have a twenty-one (21) day period in which to consider this AGREEMENT and Release. PLAINTIFF acknowledges that he has obtained the advice and counsel from a legal representative of her choice and executes this AGREEMENT and Release having had sufficient time within which to consider its terms. PLAINTIFF represents that if he executes this AGREEMENT and Release before twenty-one (21) days have elapsed, he does so voluntarily, upon the advice and with the approval of her legal counsel, and that she voluntarily waives any remaining consideration period.

17. Right to Revoke AGREEMENT and Release

PLAINTIFF understands that after executing this AGREEMENT and Release, he has the right to revoke it within seven (7) days after her execution of it. PLAINTIFF understands that this AGREEMENT and Release will not become effective and enforceable unless the seven (7) day revocation period passes and PLAINTIFF does not revoke the AGREEMENT and Release in writing. PLAINTIFF understands that this AGREEMENT and Release may not be revoked after the seven (7) day revocation period has passed. PLAINTIFF understands that any revocation of this AGREEMENT and Release must be made in writing and delivered to the Attorney General's Office counsel of record for DEFENDANT at the following address.

Chris A. Knudsen, Supervising Deputy Attorney General
State of California, Department of Justice
Office of the Attorney General
110 West "A" Street, Suite 1100
San Diego, CA 92101

within the seven (7) day period.

PLAINTIFF understands and acknowledges that he will not be entitled to any benefits under this AGREEMENT if he revokes the AGREEMENT and Release.

18. Mutual Drafting Contribution

This AGREEMENT has been drafted on the basis of the parties' mutual contribution to the drafting language and it is not to be construed against any party as being the drafter of this AGREEMENT. Should there be any finding of ambiguity in any provision of this AGREEMENT, such ambiguity shall not be construed against any party herein.

19. Binding Effect

This AGREEMENT shall, to the extent applicable, be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

20. California Law to Apply

This AGREEMENT shall be interpreted in accordance with, governed by, and enforced in all respects by the laws of the State of California. The parties agree that any disputes arising under this AGREEMENT must be resolved in the courts of the State of California.

21. Entire Agreement

This AGREEMENT contains all the terms and conditions agreed upon by the parties regarding the subject matter of this AGREEMENT. The parties hereby represent and acknowledge that in executing this AGREEMENT, they do not rely and have not relied upon any representation or statement made by any of the parties or by any of the parties' agents, attorneys, or representatives with regard to the subject matter, basis, or effect of this AGREEMENT, or otherwise, other than those specifically stated in this written agreement. This AGREEMENT

supersedes any previous oral agreement or understanding between the parties regarding any matter contained in it.

22. Amendments and Modifications Must Be In Writing

Any amendment or modification of this AGREEMENT must be in writing and signed by each party.

23. Disputes Regarding Agreement

The parties further understand and agree that if, at any time, a violation of any term of this AGREEMENT is asserted by any party hereto, that party shall have the right to seek specific performance of that term and/or any other necessary and proper relief, included but not limited to damages and interest, and the prevailing party shall be entitled to recover his, her, or its reasonable costs and attorneys' fees. The parties hereby agree that under Code of Civil Procedure section 664.6, the court in the above-entitled case shall retain jurisdiction over the parties to enforce this AGREEMENT.

24. Severability of Agreement

Should any provision of this AGREEMENT be declared or be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, enforceability of the remaining parts, terms, or provisions shall not be affected thereby, and said illegal, unenforceable, or invalid part, term, or provision shall not be deemed to be a part of this AGREEMENT.

25. Authority to Enter Into Agreement

Each of the parties hereto represents and warrants that, as of the date of the execution of this AGREEMENT, that he or it has the right and authority to enter into this AGREEMENT.

Each of the signatories to this AGREEMENT represent that he or she is either a party or an

authorized representative of a party and is fully authorized to execute this AGREEMENT on behalf of the party for whom he or she signs.

PLAINTIFF warrants that he is the sole and lawful owner of all rights, titles, and interests in and to every claim and other matter which she has agreed to release in this Agreement and that he has not assigned or transferred or attempted to assign or transfer to any person or entity any claims or other matters released.

PLAINTIFF expressly warrants that he has not sold, assigned, transferred, conveyed, or otherwise disposed of any claims or demands relating to any right released by virtue of this AGREEMENT. PLAINTIFF expressly warrants that there are no liens on his interest in the ACTION or on the settlement proceeds.

PLAINTIFF will indemnify and save harmless the DFI from any loss, claim, expense, obligation, demand, or cause of action of any kind or character from any person, corporation, or entity not a party hereto who asserts any claim that PLAINTIFF has released through this AGREEMENT.

26. Execution in Counterparts

This AGREEMENT may be executed in counterparts and shall be binding on all parties as if the original was signed by all parties.

CAUTION: PLEASE READ CAREFULLY. THIS SETTLEMENT AGREEMENT AND RELEASE CONTAINS A RELEASE OF KNOWN AND UNKNOWN CLAIMS.

///

///

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT AND RELEASE. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO SIGN THIS AGREEMENT, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THIS AGREEMENT VOLUNTARILY.

SO AGREED:

Dated: 26 Dec 10

DONALD LAKE


Donald Lake

Dated: _____

JULIO PRADA

Julio Prada

Dated: _____

ROBERT VENCHIARUTTI

Robert Venchiarutti

Dated: _____

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

By: _____

Title: _____

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT AND RELEASE. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO SIGN THIS AGREEMENT, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THIS AGREEMENT VOLUNTARILY.

SO AGREED:

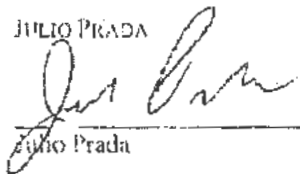
Dated: _____

DONALD LAKE

Donald Lake

Dated: 1/3/2011

JULIO PRADA



Julio Prada

Dated: _____

ROBERT VENCHIARUTTI

Robert Venchiarutti

Dated: _____

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

By: _____

Title: _____

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT AND RELEASE. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO SIGN THIS AGREEMENT, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THIS AGREEMENT VOLUNTARILY.

SO AGREED:

Dated: _____

DONALD LAKE

Donald Lake

Dated: _____

JULIO PRADA

Julio Prada

Dated: 12/21/10

ROBERT VENCHIARUTTI

Robert Venchiarutti

Dated: _____

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

By: _____

Title: _____

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT AND RELEASE. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO SIGN THIS AGREEMENT, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THIS AGREEMENT VOLUNTARILY.

SO AGREED:

Dated: _____

DONALD LAKE

Donald Lake

Dated: _____

JULIO PRADA

Julio Prada

Dated: _____

ROBERT VENCHIARUTTI

Robert Venchiarutti

Dated: 10/23/2010

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS


By: [Signature]

Title: Chief Administrative Officer

APPROVED AS TO FORM AND CONTENT:

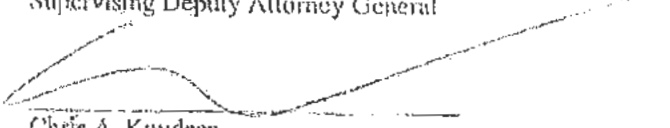
Dated: 1/3/11

KODAM & ASSOCIATES, PC
Daniel Kodam, Esq.


Daniel Kodam
Attorneys for Plaintiff Donald Lake

Dated: 1/5/11

EDMUND G. BROWN JR.
Attorney General
ALICIA M.B. FOWLER
Senior Assistant Attorney General
CHRIS A. KNUDSEN
Supervising Deputy Attorney General


Chris A. Knudsen
Supervising Deputy Attorney General
Attorneys for Defendants
California Department of Financial Institutions,
Julio Prada, and Robert Venchiarutti

SD2009701501
70105959.doc

EXHIBIT A



Asher Mediation

STIPULATION FOR SETTLEMENT

Re: Lake vs. California Department of Financial Institutions
San Diego Superior Court Case Number: 37-2010-00102604-CU-OE-CTL


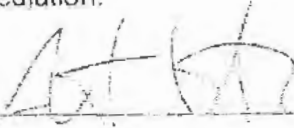
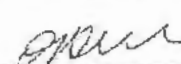
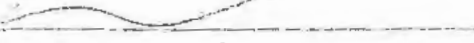
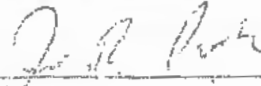
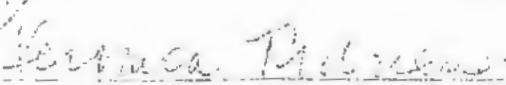
This matter came on for mediation on October 26, 2010 before N. Denise Asher, mediator. After full consideration of the merits of the controversy,

IT IS HEREBY STIPULATED, by and between the parties, through their respective counsel and/or representative, that the above-referenced case has been settled according to the following terms:

- ① no admission of liability
- ② to be formalized in a settlement agreement
- ③ dismissal w/ prejudice of all AS
- ④ payment of sum of \$27,000 total payable to Dadd Lake
- ⑤ both parties bear own costs & fees
- ⑥ general release of all claims by IT to all AS
- ⑦ 1542 waiver
- ⑧ promise not to sue
- ⑨ not to return to MTD
- ⑩ if not to seek by prosecution of MTD

The parties intend for this mediation agreement to be a final resolution of this case and intend to be bound by the provisions of this agreement. (Fair v. Bakhtiari, 40 Cal.4th 189). The parties further intend that this agreement be enforceable pursuant to Evidence Code Section 1123(b) and Code of Civil Procedure Section 664.6.

Executed on October 26, 2010 at the mediation.

Mediation or Dispute Resolution

1 RUSSELL E. NORDSTROM, Esq. - SB#59809
2 NORDSTROM, STEELE, NICOLETTE AND BLYTHE
3 601 South Figueroa Street, Suite 3800
4 Los Angeles, California 90017
5 (323) 937-1000

6 Attorneys for Plaintiff(s)

FILED
LOS ANGELES SUPERIOR COURT

MAR 12 2003

JOHN A. CLARKE, CLERK
Claudia Curiel
BY CLAUDIA CURIEL, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 ROOSEVELT BATES,

12 Plaintiff,

13 v.

14 PHILIP J. HALVORSON, ROBERT R.
15 VENCHIARUTTI; DOES 1 through 25,
16 inclusive,

17 Defendants.

CASE NUMBER: **SC076324**

COMPLAINT FOR DAMAGES - LEGAL
MALPRACTICE

Case Management Conference **AUG 12 2003**
1725 Main St. Santa Monica Dept. *m*

Time *9a*

18 Plaintiff, ROOSEVELT BATES, alleges against defendants, and each of them, as follows:

19 1. Plaintiff is informed and believes and thereon alleges that defendant, PHILIP J.
20 HALVORSON, at all times relevant hereto, was and is a resident of the County of Los Angeles,
21 California.

22 2. Plaintiff, ROOSEVELT BATES, at all times relevant hereto, was and is a resident of
23 the County of Los Angeles, State of California.

24 3. Plaintiff ROOSEVELT BATES is related to ORA LEE BATES, who died on March
25 24, 2002. She was his aunt.

26 4. Defendant, PHILIP J. HALVORSON, at all times relevant hereto, was an attorney at
27 law licensed to practice law in the State of California.

28 5. Defendants ROBERT R. VENCHIARUTTI, and DOES 1 through 10, inclusive, are

1 attorneys who were commissioned by defendant PHILIP J. HALVORSON to serve as associates.

2 6. Plaintiff is ignorant of the true names and capacities of defendants DOES 1 through
3 25, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend the
4 complaint to allege their true names and capacities when ascertained. Plaintiff is informed and
5 believes and thereon alleges that each of the fictitiously named defendants is negligently responsible
6 in some manner for the occurrences herein alleged, and that the plaintiff's losses as herein alleged
7 were proximately caused by such negligence.

8 7. Each defendant is sued as the agent, employer, employee, principal and/or servant of
9 every other defendant acting within the course and scope of said relationship, with the knowledge
10 ad/or consent of said defendants.

11 8. On or about August 3, 1999, Plaintiff retained defendant PHILIP J. HALVORSON to
12 prepare certain legal documents including a testamentary trust. The financial terms of the retainer
13 agreement provided for an immediate payment of \$2,500.00 and a provision for monthly billing at
14 the rates of \$200.00 per hour for Associate Attorney work and \$250.00 per hour for the work of
15 defendant Philip J. Halverson.

16 9. On or about August 3, 1999, Ora Lee Bates tendered to defendant a check in the sum
17 of \$2,500.00 in accordance with the provisions of the retainer and in consideration for the legal
18 services to be performed including the testamentary trust.

19 10. It was, at all times relevant hereto, the intent of ORA LEE BATES, that plaintiff
20 ROOSEVELT BATES be the beneficiary of assets of the trust upon the occasion of the death of Ora
21 Lee Bates. As such, Roosevelt Bates as an intended **third party beneficiary** of the contract entered
22 into by Ora Lee Bates with defendant PHILIP J. HALVORSON.

23 11. Ora Lee Bates timely communicated to defendant PHILIP J. HALVERSON, and
24 DOES 1 through 10, inclusive, her intent that plaintiff ROOSEVELT BATES was to be the intended
25 sole beneficiary of the assets of the testamentary trust upon the death of Ora Lee Bates.

26 12. Defendants PHILIP J. HALVORSON, ROBERT R. VENCHIARUTTI, and DOES 1
27 through 10, inclusive, owed a legal duty to faithfully perform the tasks necessary to effectuate the
28 intent of Ora Lee Bates. That legal duty required defendants to possess and exercise that degree of

1 skill, knowledge and ability so as to be in accord wit the standard of practice of the legal profession
2 at and during the representation by the defendants, and each of them.

3 13. Defendants PHILIP J. HALVORSON, ROBERT R. VENCHIARUTTI, and DOES 1
4 through 10, inclusive, failed to comport to the standard of practice of the legal profession in
5 California in the manner in which the trust documents were to be prepared. The departure from the
6 standard of practice proximately resulted in the failure to create a legally enforceable trust.

7 14. As a direct and proximate result of the negligence of the defendants, and each of
8 them, instead of the assets of Ora Lee Bates going into a legally proper testamentary trust with the
9 assets thereto passing to plaintiff ROOSEVELT BATES upon the death of Ora Lee Bates, the assets
10 are being distributed by intestate succession to eleven heirs of which plaintiff is but one.

11 15. Plaintiff is informed and believes, and thereon alleges that the assets which are now to
12 be distributed by intestate succession are reasonably valued at a sum of approximately \$300,000.00.

13 16. As a direct and proximate result of the negligence of the defendants, and each of
14 them, Plaintiff ROOSEVELT BATES has been damaged by the difference between all of the
15 remaining assets and one-eleventh of the remaining assets.

16 17. Plaintiff ROOSEVELT BATES, as third party beneficiary of the contractual
17 relationship between defendants, and each of them, and Ora Lee Bates, is aggrieved by the failure of
18 the defendants, and each of them, and has standing to sue in the capacity of a third party beneficiary.

19
20 WHEREFORE, plaintiff prays judgment against defendants, and each of them, as follows:

- 21 1) For damages in a sum according to proof;
22 2) For costs of suit incurred herein;
23 3) For such other and further relief as the court may deem just and proper.

24 NORDSTROM, STEELE, NICOLETTE AND BLYTHE

25
26 By 
27 RUSSELL E. NORDSTROM
28 Attorneys for Plaintiff ROOSEVELT BATES

From: Gonsalves, David David.Gonsalves@asm.ca.gov
Subject: RE: California Assembly Bill 786 + Money Transmission Act Hearing Agenda
Date: March 6, 2013 at 1:16 PM
To: Aaron Greenspan aarong@thinkcomputer.com
Cc: Ermoian, Harry Harry.Ermoian@asm.ca.gov, Dennis, Jeremy Jeremy.Dennis@asm.ca.gov, Sandin, Jessica Jessica.Sandin@asm.ca.gov, Buckley, Ross Ross.Buckley@asm.ca.gov, Morelos, Genevieve Genevieve.Morelos@asm.ca.gov, Cheung, Edmond Edmond.Cheung@asm.ca.gov, Alley, Amy Amy.Alley@asm.ca.gov, Moreno, Aaron Aaron.Moreno@asm.ca.gov, Wescott, Allison Allison.Wescott@asm.ca.gov, Arambel, Jonathan Jonathan.Arambel@asm.ca.gov, Quezada, Crystal Crystal.Quezada@asm.ca.gov, Farouk, Mark Mark.Farouk@asm.ca.gov, Hershman, Marc Marc.Hershman@sen.ca.gov

Mr. Greenspan,

Thank you for your letter.

Until someone has been convicted of a crime in a court of their peers, they are innocent. To my knowledge, that has not happened.

Your letter will not be included in the packet if the disparaging remarks about Deputy Commissioner Venchiarutti remain. That section has absolutely nothing to do with this hearing.

I understand you have an ongoing dispute, but this is not the time or the place for you to air your concerns about . I expect you will proceed with that effort in a court of law. Further, you may direct your concerns about the behavior of Deputy Commissioner Venchiarutti to the State Personnel Board, his superiors in the Department or the Agency or to the Governor's office.

Please, if you want this letter included in the packet, delete the disparaging remarks from your letter. You have until 5:00 today.

I will not be responding to you about this again today.

Thank you, again, for your letter.

Sincerely,
David Gonsalves

From: Aaron Greenspan [mailto:aaron.greenspan@gmail.com] **On Behalf Of** Aaron Greenspan
Sent: Wednesday, March 06, 2013 12:03 PM
To: Gonsalves, David
Cc: Ermoian, Harry; Dennis, Jeremy; Sandin, Jessica; Buckley, Ross; Morelos, Genevieve; Cheung, Edmond; Alley, Amy; Moreno, Aaron; Wescott, Allison; Arambel, Jonathan; Quezada, Crystal; Farouk, Mark; Hershman, Marc
Subject: Re: California Assembly Bill 786 + Money Transmission Act Hearing Agenda

Mr. Gonsalves,

Please see the attached combined comment letter per your request. I ask that it supersede the previous two letters the Committee has received from Think, and that it be distributed in the hearing packet.

You will find any remarks about DFI personnel entirely appropriate given the subject matter (the

MIA and the enforcement thereof) and backed by considerable evidence. If constituents are not permitted to speak openly about their government in hearings then I'm not sure why it makes any sense to have them.

Aaron



Aaron Greenspan
President & CEO
Think Computer Corporation

telephone +1 415 670 9350
toll free +1 888 815 8599
fax +1 415 373 3959
e-mail aarong@thinkcomputer.com
web <http://www.thinkcomputer.com>